PROCEDURE

FOR

ASSESSMENT
CHAPTER 5

Procedure for Assessment

An Administrative Organization adopts certain procedures or ways of doing things, which become entrenched with the passing of time. The students of administrative system described these procedures and practices as an important part of the culture of the organization. All organizations adopt specific procedures under approved rules and regulations. The deviations from prescribed rules and regulations lead to malpractice and mal-administrative functioning. Procedural irregularities add to problems of the administration and are termed quite often not only unethical but invariably illegal. The sanctity behind established and approved ‘procedures of work’ and practices have been recognized all over the world. Appropriate means and selection of goals are interwoven.1

In bureaucratic Organizations, the functional complexities generally are dependant upon organizational procedures and practices. All organizational activities are directly related to one or more of the procedures, practices and rules2. In the context of Indian Administration, Prasad and Singhi described that “complexity of rules and procedures adversely affect bureaucratic efficiency.”3 All organizations including civil services and bureaucracies function by using procedures methods of work and practices. All these infer a specific variety of work culture the culture of doing work by the administrators or the civil servants.

Meaning of Assessment

For the purpose of assessment under the income tax laws, the first thing that requires our consideration is, to know the meaning of assessment. The word “assessment” used in the Income Tax Act is in more than one sense, some times, it means the computation of income, some times the determination of the

3, Singhi, N. K., Prasad bureaucracy in India. New Delhi, Sterling Publisher, FN4, 1974, p63-65
amount of tax payable, and sometimes the whole procedure laid down in Income Tax Act for imposing on the tax payer.\textsuperscript{4}

Thus the term "assessment" used in any of the provisions of this act as to its real sense must be understood with reference to the context in which it is used. In some sections it has a comprehensive meaning and includes reassessment, in some sections it has a restricted meaning as distinct from reassessment.\textsuperscript{5}

The word "assessment" is used in the most comprehensive sense as include the whole procedure for imposing liability upon the tax payer and consists of the following steps:

1. The taxable income of the Assessee has to be computed.
2. The sum payable by him on the basis of such computation has to be determined.
3. A notice of demand in the prescribed form specifying the sum so payable has to be served upon assesses.\textsuperscript{6}

**Assessment Methods for Determining Taxable Income and Calculating the Amount of Tax Due**

The methods of assessment are applied at different stages: prior to the filing of the tax returns, after filing of an "information return", or following audits or similar moves by the tax administration to verify the veracity of the "information return". The assessment may be carried out by the taxpayers themselves, by the tax administration act unilaterally or jointly by the tax administration and taxpayers.

Information is the revenue administration’s most potent weapon in its efforts to collect taxes due under the law. Since gathering and storage of information is the basis for other steps in the collection process aimed at ensuring timely and


\textsuperscript{5} Lakhman Shenoy V. ITO and ITO V. City Tabacco Mart, p. 34 ITR, 1958, Sections 265, 293 and 146.

\textsuperscript{6} CIT V. Khem, Chand, Ram, Das, (1938), 6 ITR 434 at p423 (p.c.), The first two steps are taken under section 143 or 144, while the final step is taken under section 156.
accurate filing of returns and payment of the full tax due at the appropriate time, efficient information systems, and especially computerization, are of great importance.

The first step in collection is to ensure that taxpayers file returns. This is the easiest type of non compliance to correct, since it involves comparing the file of registered tax payers with that of taxpayers who have filed. Once non filers have been identified in this way, they can be reminded of their obligations and induced to comply with them.

The second step is to ensure that taxpayers file full, complete and timely tax returns. Fundamentally, a tax return incorrect when it results in a tax lowers than the one payable according to the law.

After filing the return the next is to collect tax. Where taxpayers are expected to pay taxes in person, the offices should be as conveniently situated as possible, open at appropriate hours, and seek to deal with taxpayers courteously and quickly.

**Assessment Procedure of Income Tax Department:**

After the expiry of the previous year, an Assessee is required to furnish the return of income in the prescribed form by the due date specified in this behalf. If a person fails to furnish voluntary return, the assessing officer issued a notice to furnish such return. Thereafter, the assessing officer proceed to assess the income or loss, earned or suffered by the Assessee for this purpose, the assessing officer require an Assessee to produce books of accounts and such other information as require. Depending on the facts of a case, the assessing officer makes a summary assessment Section or scrutiny assessment. If the Assessee does not cooperate in assessment proceedings, the assessing officer may make an assessment to the best of his judgment Section 144(a). The assessment or reassessment proceedings are completed with in the prescribed time limit. However, the assessing officer is vested with special powers to make assessment in search cases within the extended time limit. The assessing officer
is also empowered to rectify mistakes as are apparent from the records and certain other mistakes.

The Income Tax Department switched over to a computerized mode of processing of returns and the related actions using AST software at stations which are already on the network. At stations which are not yet on the network Tax Management System (TMS) software on stand alone computers is to be used till such time as they are brought on the network. For computerized processing of returns etc., it is necessary to understand the scheme and the basic operation of the customized application software developed by the department for this purpose.

**Computerisation**

**Application Software:** In order to ensure uniformity of application software, and consistency and integrity of data as well as the software, the following customized application software have been developed which are relevant for discharging assessment functions in a fully computerized environment: -

i. Manpower Management System (MMS)
ii. Initial PAN Allotment System (IPAN)
iii. Assessee Information System (AIS)
iv. Tax Accounting System (TAS)
v. Assessment Information System (AST)
vi. Individual Running Ledger Account System (IRLA)
vii. Judicial Reference System (JRS)

These are integrated application systems (except JRS, which is an off-line system), which can be accessed through any computer, which is on the network.

It was felt by the Government that to avoid the tax evasion it should be necessary that the working of the department should be computerized. To continue this department has setup the tax information network this is hosted by National Security Depositories Ltd. (NSDL). Through this system now the processing of
the department becomes easy. Tax payments, coming online from banks collecting direct taxes. Tax deductions from TDS returns - filed electronically as well as on paper. High value financial transaction coming through annual information returns. These have started being filed in electronic format with TIN using PAN as the key identifier from August 2005. It was believed that computerized processing can help to increase assesses. Computerization can also help to dispose of number of cases every year.

The status of project tracks for augmentation of computer infrastructure is as under:

<table>
<thead>
<tr>
<th>Project Track</th>
<th>Particulars</th>
<th>Status as on 20.02.2006</th>
<th>Status as on 20.02.2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Providing PCs to all users</td>
<td>Supply, installation of high end PCs to all users required to work on network</td>
<td>Completed</td>
<td>More than 8,800 PCs have been</td>
</tr>
</tbody>
</table>

**Permanent Account Number**

PAN was introduced keeping in view the following objectives: -

1. To facilitate linking of various documents and information, including payment of taxes, assessment, tax demand, arrears etc. relating to an Assessee.

2. To facilitate easy retrieval of information.

3. To facilitate matching of information relating to investment, loans raised and other business activities of taxpayer collected through various sources, both internal as well as external, for widening of tax base and detecting and combating tax evasion through non-intrusive means.
Permanent Account Number is basically a method of identifying a taxpayer on the computer system through a unique All-India number so that all information relating to that taxpayer, e.g. taxes paid, refunds issued, outstanding arrears, income disclosed, transactions entered etc. can be linked to him through the computer system. Processing of return of an Assessee or other actions on AST software is not possible unless PAN has been allotted to him and is linked to the AO code of the Assessing Officer who is trying to process that return.

The old Series of Permanent Account Number: Earlier assessees of the Income Tax Department were identified by their General Index Register (GIR) Number. This was essentially a manual system. The GIR number was unique only within an Assessing Officers Ward / Circle and not through out the country. To overcome these shortcomings, Permanent Account Number (Old Series) was first introduced in 1972 and made statutory u/s 139A of the act w.e.f. 1st April, 1976. Blocks of Permanent Account Number were allotted to each Commissioner Charge by the board. The Commissioners made the allotment of the Permanent Account Number to assesses under various Assessing Officers in their charge from within the Block allotted to them initially the allotment was made manually. Computerized allotment was introduced through 36 computer centers covering the entire country in 1985. However the PAN under old series failed to meet the desired objectives for following reasons:

i. No database was maintained and there was no check to avoid allotment of multiple PANs to a taxpayer;

ii. The data captured under the computerized system was not structured and was limited to very few parameters – Name, Address, Status and designation of AO;

iii. The allotment of PAN was not centralized – an Assessee could apply for allotment of PAN in different centers and get a distinct PAN from each center, due to which all India uniqueness could not be achieved;
iv. PAN was not permanent as jurisdiction of the Assessee was part of the PAN and, therefore, was prone to changes with the change in jurisdiction;

Permanent Account Number under new series: Since a taxpayer can make payment of tax or have monetary transaction anywhere in India, a unique all India taxpayer identification number is essential for linking and processing transactions / documents relating to a taxpayer on computers, as also for data matching. Therefore, a new series of Permanent Account Number was devised which took care of the above limitations. Application for allotment PAN under new series was made mandatory in Delhi, Mumbai and Chennai w.e.f. 01.06.96, and in rest of the country w.e.f. 11.02.98.

The PAN under the new series is allotted centrally by a customized application system (IPAN / AIS) for all India uniqueness. The system automatically generates a 10 charter PAN using the information in above five core fields.

The phonetic PAN (PPAN) is a new concept which helps prevent allotment of more than one PAN to assessee with same / similar names. AIS works out the PPAN based on some important key fields of an Assessee using an internal algorithm. At the time of PAN allotment, the PPAN has been allotted all over the nation. If a matching PPAN is detected, a warning is given to the user and a duplicate PPAN report is generated. In such cases, a new PAN can only be allotted if the Assessing Officer chooses to override the duplicate PPAN detection.

A unique PAN can be allotted under this system to 17 Crore taxpayers under each alphabet under each status (i.e. individual, HUF, Firm, Company, Trusts, Body of Individuals, Association of Persons etc.)

**Jurisdiction Regarding PAN Numbers:** The permanent account number / card does not by itself indicate jurisdiction, as jurisdiction gets changed frequently and is not a permanent information. However, in the database each PAN is linked to a 10 digit Assessing Officer code indicating the jurisdiction of the taxpayer. This AO code defines the Chief Commissioner region, The Commissioner Charge,
The Joint Commissioner range and the place and designation of the Assessing Officer (S). any authorized user of the Income Tax application systems can, by making a quarry on any PC on the Income Tax network find out the Assessing Officer for the given PAN.

Who is required to apply for Permanent Account Number: Under Section 139A (1) of the Income Tax Act, 1961 following categories of persons are expected to apply and obtain Permanent Account Number: -

i. Person who are already assessed or assessable to Income Tax;

ii. Person who are carrying on any business or profession where total sales / turnover / gross receipts are or is likely to exceed Rs. 5,00,000/- in any previous years;

iii. Trusts;

iv. Any class or classes of persons by whom tax is payable under the Income Tax Act or any tax or duty is payable under any other law for the time being in force including importers and exporters whether any tax is payable by them or not.

**Allotment of PAN:** Bulk allotment of PAN in batch process through IPAN: PAN can be allotted in batch mode using IPAN system centrally through Computer Centers. It can also be allotted on-line by Assessing Officers using AIS system from their computers on the network. In batch mode, applications in Form 49A for allotment of PAN are received by the Assessing Officers. After basic verification, these are sent to the Computer Centers where data is entered on Computer Centers, Delhi through high speed dedicated leased data circuits. The National Computer Centre checks the taxpayer database and allots a new PAN if the applicant has not been allotted such number earlier. The PANs thus allotted are transmitted back to the concerned Computer Centre which prints the allotment letters / PAN Cards and issue the same to taxpayer.
Particulars of Allotment of PAN Over the Years (2000 to 2003)

<table>
<thead>
<tr>
<th>Year</th>
<th>Total applications pending at the beginning of the year</th>
<th>Application received during the year</th>
<th>Core field deficiency case including duplicate PAN</th>
<th>Pan allotted during the year</th>
<th>Valid applications pending at the end of the year</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999-2000</td>
<td>5856456</td>
<td>1566577</td>
<td>1408924</td>
<td>5066981</td>
<td>947128</td>
</tr>
<tr>
<td>2000-2001</td>
<td>2356052</td>
<td>1727875</td>
<td>1384272</td>
<td>2300218</td>
<td>399437</td>
</tr>
<tr>
<td>2001-2002</td>
<td>1783709</td>
<td>2847610</td>
<td>1302795</td>
<td>2678764</td>
<td>649760</td>
</tr>
<tr>
<td>2002-2003</td>
<td>1952555</td>
<td>4869378</td>
<td>1245330</td>
<td>5317914</td>
<td>258689</td>
</tr>
</tbody>
</table>

Source: ITR 2003

After 2003 it was decided by the board that the government should out sourced the activities related to receipt of PAN application, data entry, printing and dispatch of PAN cards. It will help in disposing of number of applications at the end of the year. Now the PAN cards are released within 7 to 10 days after receiving the application from the applicant. This is possible due to the outsourcing of the activity.

The PAN is must for all Indians as well as for NRIs also. few questions are asked by a woman who is residing in the US with her husband and both are NRIs. They bought two plots in India. Her husband’s name is the first name in the sale deed of both plots and her’s is the second name. She has the following questions:

a) Are the plots subject to Income Tax in India?

b) Are they subject to Wealth Tax in India?

c) If so, how do they file returns from the US?

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Standing committee on finance, Ministry of Finance and Company affairs, Department of Revenue, Loksabha, Secretariat, April 2003.
d) Do they need PAN numbers in order to file the returns or are NRIs exempted from having PAN?

e) Does it matter whose name is the first name in the sale deeds of the plots. Her husband funded the plots, she is a house wife. However, the plots were funded from their joint account.

Answer: The initial exemption limit for Wealth Tax is Rs. 15 Lacs. Beyond this value, Wealth Tax is payable at the rate of the one percent on the value of the assets. The Plots will not be subject to Income Tax. PAN is mandatory in order to file a tax return and NRIs are not exempted from the same. Since it is her husband who funded the plots his name being that of the first holder is appropriate in order. Your name being second is for convenience and has no implications either for income tax or for wealth tax.

Another question is asked by the person who is residing at UAE since last 20 years, now he has returned to India. Though he does not have a regular job, he undertakes some freelance assignments, the income from which is taxable. When he was in the UAE, he had made some investments in mutual funds that he will be liquidating to aid in his day to day expenses. He is aware that this income would be taxable in India as capital gains. His question is whether he can avail of indexation to compute long terms capital gains and secondly, what is the exchange rate that he should use to arrive at the Rupee value of capital gains? Also, since his Indian investments are currently at loss, can he book such loss and set off the long term gain from abroad against the domestic short term loss?

Answer: As regards the availability of indexation on his foreign investments, note that the same is available as per section 2 (42A) read with section 48 of the Income Tax Act.

Regarding conversion of the Dollars to Rupees, one has to go be the provisions of rule 115 (1) clause 2 (f) of the explanation of this rule clearly states that in
respect of Income chargeable under the head capital gains, the telegraphic transfer buying rate (of SBI) for the last day of the month immediately preceding the month in which the capital asset is transferred has to be adopted.

With respect to the availability of set off long term gain against short term loss, the same is available as per section 74 of the Income Tax Act. Note, that only taxable long term gains may be set of this way, tax free long term gains (on domestic shares and equity mutual funds) may not be set off.  

**Procedure to File the Return**

Every person is liable to file the Income Tax Return under the Income Tax Act 1961 (Section-139(1)), if the income exceeds the maximum marginal limit prescribed by the act. The return should be filed by the different category of the Assessee in different forms.

<table>
<thead>
<tr>
<th>Type of Assessee</th>
<th>Forms</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual / HUF</td>
<td>ITR-1</td>
<td>The person having income from salary or pension, including family pension and interest income.</td>
</tr>
<tr>
<td>Individual / HUF</td>
<td>ITR-2</td>
<td>The person having income from house property.</td>
</tr>
<tr>
<td>Individual / HUF</td>
<td>ITR-3</td>
<td></td>
</tr>
<tr>
<td>Individual / HUF</td>
<td>ITR-4</td>
<td>The person having income from business profession.</td>
</tr>
<tr>
<td>Firm</td>
<td>ITR-5</td>
<td></td>
</tr>
<tr>
<td>Company</td>
<td>ITR-6</td>
<td></td>
</tr>
<tr>
<td>Trust or AOP</td>
<td>ITR-7</td>
<td></td>
</tr>
</tbody>
</table>

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8 The Tribune. PAN must for NRIs. Dated 16.11.2008
The Assessee should file the return within the prescribed time limit that is for individual and HUF below the income of 40 lacs is 31st July of every assessment year and the income above 40 lacs is 31st October of every assessment year. The firm should file the return before 31st July and the company and trust should file the return before 31st October of every assessment year.

The question is asked by the person that he was abroad for some time and hence missed the date for filing of tax return. Now what are his options? Can he file return now? If so, would there be any penalty or fine payable.

Answer. For financial year 2007-8, he may file a tax return till 31st March 2009 without having to pay any penalty. However, if any tax were payable by him, interest @ 1% pm will be payable from 31st March 2008 onwards, till such time that he actually pay the tax.

The another question asked by the person, who have a PPF account opened on behalf of HUF and had extended the account for five years by submitting a request in financial year 2007 – 08. he has been told that as per new law HUF cannot open a PPF account or invest in NSC for claiming deductions u/s 80C anymore. Only PPF accounts, which are exists, can be continued till maturity (at end of 15 year). Since the PPF account of his HUF is already extended where four extended year are balanced, can he continue to contribute to the PPF account and claim benefit. If not can he withdraw PPF account? Which is the beat avenue wherein HUF can invest to claim benefit u/s 80C?

Answer: You can keep on contributing to the PPF account of your HUF account and avail of the tax benefits but at the end of the extended period, you will have to close the account. It can not be extended any further, neither can a fresh account be opened for HUF. Avenues u/s 80C that HUFs are still eligible for are ELSS and ULIP u/s 80C. 

Filing of the Return of Income:

There are two types of returns described below.

Voluntary Return: An Assessee should furnish the return of his total income voluntarily in accordance with the provisions. Every company should furnish its return of income voluntarily. Any person other than a company should also file the return. Even if their income do not falls on the taxable criteria.

The person had invested in 5 year post office RD, which has got matures and she got it en-cash in her native place. Since she is not intending to go there immediately, she gave it to her father and asked him to open an FD for one year in his name. Since the money has not remitted into her bank account this year, should she be paying tax on this income this financial year?

Next year when she gets the money from her father on maturity of FD, how will she show it in her return? Will it be better to show it as gift or as something else? Her father is retired and does not come in the tax bracket.

Answer: Whether she gets the maturity in cash or by cheque, it is her income and taxes payable by her. It is her call if she wishes to do so or not.

She has since given the money to her father for opening an FD in his name and this will be tantamount to her gifting him the money. Later, when he gives her back the proceeds, he will be gifting the funds back to her. Such gifts between immediate family members are tax free. However, the income from the FD will be added to her fathers income, after adding, if he continuous to be below the taxable limit, he need not file a return.10

Obligatory Return: Every person whose income exceeds one lac every year, he is liable to file a return. The slab to file the return is as below:

<table>
<thead>
<tr>
<th>Slabs of Income</th>
<th>Tax liability</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income Upto Rs. 1 Lac</td>
<td>NIL</td>
</tr>
<tr>
<td>From Rs. 1 Lac to 1.5 Lac</td>
<td>10% of the taxable income</td>
</tr>
<tr>
<td>From Rs. 1.5 Lac to 2.5 Lac</td>
<td>20% of the taxable income</td>
</tr>
<tr>
<td>From Rs. 2.5 Lac and above</td>
<td>30% of the taxable income</td>
</tr>
</tbody>
</table>

10 The Tribune, HUF can’t open a PPF account, Dated 23.11.2008.
**Return of Loss:** An Assessee cannot carry forward a set of his loss against income in the same or subsequent year unless he has filed a `return of loss in accordance with the provisions. A return of loss is filed by the Assessee in his own interest and non receipt of the notice from the assessing officer requiring him to file the return cannot be a valid excuse under any circumstances for the non filing of such return.

**Belated Return:** If the person did not file the return within the time allowed to him or within the time allowed under a notice issued may furnish the return for any previous year at any time before the expiry of one year from the end of the relevant assessment year.

**Return of Income of Charitable Trust and Institutions:** Every person in receipt of income derived from property held under a trust of another legal obligation wholly or partly for charitable or religious purpose, or by way of voluntary contributions on the behalf of such trust or institutions furnished a return of income in all cases where the total income exceeds the maximum amount not chargeable to income tax, must furnish the return in the prescribed from and verified in the prescribed manner containing all the particulars prescribed for this purpose. Any failure on the part of the Assessee would attract liability to pay interest and penalty as in other cases.

**Return of Income of Political Parties:** The chief executive officer is required to file a return of the total income of the party for the assessment year if the amount of total income exceeds the basic exemption admissible to it and for this purpose the amount of total income must be determined before taking into account the exemption granted. The return is filed in the prescribed form and verified in the prescribed manner.
**Mandatory filing of Return by Scientific Research Associations, News Agencies, Trade Unions**

To file the return by scientific research associations, news agencies, trade unions etc. is mandatory if there total income without giving effect to exemptions, exceeds the marginal amount not chargeable to tax. Such return of income is in the prescribed form and verified in the prescribed manner.

**Revised Return** If any person filed a return or in pursuance of a notice issued to him discovers any omission or any wrong statement therein he can furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before completion of assessment year whichever is earlier.

**Defective Return** Assessing officer has power to call upon the Assessee to rectify a defective return. If the assessing officer find any type of statement is mentioned wrongly in the form he can put the return aside as a defective return and call upon the Assessee. The assessing officer considers that the return of income furnished by the Assessee is defective. He is given the discretion to intimate the defect to the Assessee and give him an opportunity to rectify the defect within a period of 15 days from the date of intimation or within such further extended time allowed by the assessing officer. If the defect is not rectified within the given time the income tax act applied as if the Assessee has failed to furnish the return. Where, however, Assessee rectified the defect after the expiry of the period, but before assessment is made, the income tax officer has been empowered to condone the delay and treat the return as the valid return.
Response of Income Tax Authorities

Table 5.1

<table>
<thead>
<tr>
<th>Level</th>
<th>% Yes</th>
<th>% No</th>
<th>% Cant Say</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class – I Officers (67)</td>
<td>82%</td>
<td>15%</td>
<td>3%</td>
<td>100%</td>
</tr>
<tr>
<td>Class – II Officers (78)</td>
<td>63%</td>
<td>35%</td>
<td>3%</td>
<td>100%</td>
</tr>
<tr>
<td>Inspectors (160)</td>
<td>52%</td>
<td>36%</td>
<td>12%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Graph 5.1: Do you feel that the Income Tax return form is simpler and easily understandable by the assesses.

When it is asked with Income Tax Officials about assesses view towards the income tax form, whether it is simpler and easily understandable, it is found that majority of the officials are satisfied with it. As per above figures 83% of the class-I officers responded in yes, whereas 15% are negative. Only 3% have no opinion. In the Class-II level 63% says yes, 35% no and 3% have no opinion. 53% inspectors said that the form is easily understandable by assesses but 36% are of other opinion. 12% said that they can not say anything on it. From the above given figures it is very much clear that most of the officials are agreed with the opinion that the form is assesses friendly.
Receipts of Returns and Preparation of Return Receipt Register:

After filing the return it is confirmed that the return carry the correct PAN.
Receipt of returns and issue of acknowledgment sheets is a manual process.
The main departmental application software, namely, AIS, TAS, AST, TDS and
CIB identify a taxpayer by his PAN. Therefore, it is essential for full
computerization that the PAN is allotted to all taxpayers and that the same is
quoted on all documents whether submitted by taxpayer (such as returns,
challans, TDS certificate etc.). Incorrect quoting of PAN leads to delay in
processing of returns on AST. In case of new assesses application in From 49A
for allotment of PAN should be insisted upon.

Receiving of Returns: Returns are received range wise centrally for all A.O.s
located in the dame building / city if the jurisdiction of A.O.s concurrent within the
range. The range Addl / JCIT should oversee the organization of receipt numbers
to these counters, preparation of return receipt register either on the AST
software or on the stand alone RRR software and its submission to CIT (CIB)
every month, storage of returns in the common record room, and their distribution
amongst A.O.s for processing.

Preparation of Return Receipt Register: After receiving the returns the
important task is done by the department is to prepare a return receipt register
for monitoring the work of the range and identifying stop filers and non-filers. This
is prepared either on the RRR module of AST software by AOs who are on the
network or on the stand alone RRR software supplied. The range JCITs ensure
that processing of returns is not started without completion of the RRR for the
preceding month. Generation of computerized RRR for each Range / AO
eliminate back-dating etc., in receipt of returns and enable the officers to know,
plan and organize their work properly.

Self assessment: While filing the return the Assessee can self assess his
income mentioned in the return form.
**Enquiry Before Assessment:** For the purpose of making an assessment, the assessing officer may serve on any person who has made a return or in whose case the time allowed for furnishing the return has expired, a notice requiring him:

To furnish a return of his income or the income of such other person in respect of which he is assessable, in the prescribed form and verified in the prescribed manner.

To produce, or cause to be produced, such accounts or documents as the assessing officer may require furnishing in writing and verified in the prescribed manner information in such form and on such points of matters as the assessing officer may require.

However, the previous approval of the joint Commissioner has to be obtained before requiring the Assessee to furnish the statement of all assets and liabilities not included in the accounts. Further, the assessing officer shall not require the production of any accounts relating to a period more than three years prior to the previous year.

**Tax Audit (Special Audit):** The Assessing Officer has got the power to direct the Assessee to get his accounts audited by an accountant if, at any stage the proceedings before him, he is of the opinion that it is necessary for him to get the accounts audited. The opinion of the Assessing Officer on the basis of which a direction for getting tax audit done should be arrived at after having due regard to the nature and complexity of the accounts. Before giving any direction to the Assessee for getting tax audit done the Assessing Officer must obtained the approval of the Chief Commissioner or Commissioner of Income Tax.

**Power of the Assessing Officer to make a Reference to the Valuation Officer:** For determining the cost of construction of properties, an Assessing officer has been taking the assistance of a Valuation Officer by exercising the power vested in him. An Assessing Officer has the power to make a reference.
Detail of valuation references received from the Assessing Officer:

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Operating balance of reference</th>
<th>References received during the year</th>
<th>References disposed during the year</th>
<th>References pending at the end of the year</th>
<th>Declared value of Properties (In Rs.) (Crore)</th>
<th>Assessed value of Properties (In Rs.) (Crore)</th>
</tr>
</thead>
<tbody>
<tr>
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<td>7495</td>
<td>1164</td>
<td>582.16</td>
<td>1834.42</td>
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<td>7528</td>
<td>1184</td>
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<td>1766.33</td>
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<td>6209</td>
<td>1261</td>
<td>646373</td>
<td>1942.64</td>
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<td>1998-99</td>
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<td>4629</td>
<td>979</td>
<td>659.65</td>
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<td>1999-00</td>
<td>979</td>
<td>6135</td>
<td>5802</td>
<td>1312</td>
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<td>5712</td>
<td>1241</td>
<td>1007.24</td>
<td>2189.79</td>
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<tr>
<td>2001-02 (upto Jan. 02)</td>
<td>1241</td>
<td>1690</td>
<td>2034</td>
<td>897</td>
<td>332.82</td>
<td>745.84</td>
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</tbody>
</table>

The Assessment Procedure Adopted by the Income Tax Authorities:

After filing the return, the assessment procedure of the income tax department starts. The types of the assessment mentioned below:

1. Summary assessment Sec – 143 (1)

2. Regular assessment Sec- 143(3) or 144:

   The regular assessment is of two types:
   - Scrutiny assessment Sec-143 (3)
   - Best judgment assessment Sec-144 (a)

Summary Assessment Sec – 143 (1):

If any tax or interest is found due on the basis of return filed or in response to a notice after adjustment of any tax deducted at source, any advance tax paid, any
tax paid in self assessment and any amount paid otherwise by way of tax or interest, then without prejudice an intimation is send to the Assessee specifying the sum so payable. If any refund is due on the basis of such return, it is granted to the Assessee. The acknowledgement of the return is deemed to be the intimation. Where either no sum is payable or no refund is due. The intimation is not send after the expiry of one year from the end of the financial year in which the return is made.

**Scrutiny Assessment:** If the assessing officer considers it necessary or expedient to ensure that the Assessee has not understated his income or has not computed excessive loss or has not underpaid his tax the notice is issued by the assessing officer to make the assessment in the normal manner as at present. This is called a scrutiny assessment. It is noted that notice for detail scrutiny can not be issued after expiry of 12 months from the end of the month in which the return of income is filed.

If the assessing officer feels that there should be an enquiry of the return filed by the Assessee he can check the following documents.

The assessing officer serve a notice on any person who has made a return or in whose case the time allowed to furnish voluntary return has expired, requiring him to produce such books of accounts or documents as are required. The Assessee should produce such accounts or document within such time as prescribed in the notice. The Assessee must comply with the notice even if he considers that the accounts or documents, required by the assessing officer, are relevant. The Assessee is given a reasonable time to produce his books of accounts.

If the assessing officer feels that the statement of all assets and liabilities is not included in the accounts he can call the Assessee with the approval of Joint
Commissioner to furnish the statement. It is deciding by the assessing officer that which books are required to be produced.

If the business of the person is carried on at several places, the assessment on the total profit is made by the assessing officer having jurisdiction at the principal place of the business. He has the authority to call the accounts pertaining to any branch even if independent enquiry have already been made and the accounts have been examined by the assessing officer having jurisdiction at the branch office.

The assessing officer cannot require the Assessee to produce books of accounts of more than three years to the previous year under assessment. The power of the assessing officer to call for the books of accounts is limited only to three years prior to the relevant previous year.

Assessing officer considers all the evidence and such other particulars as are produced by the Assessee on specified points and the assessing officer takes into account all relevant material, which he has gathered. When assessing starts, the assessing officer must have material on which to base his judgment or estimate. The assessing officer is can not make a pure guess work and make an assessment without reference to any evidence or any material at all. Where the assessing officer considers that the material placed before him by an Assessee is not reliable, he cannot proceed to make an arbitrary assessment. If the assessing officer thinks that the profits shown by the Assessee are not acceptable, it is for the taxing authorities to prove that the Assessee had made more profits the assessing officer has to relate his estimate to some evidence or material on record. An assessment based on mere conjectures, surmise or suspicion or irrelevant and inadmissible evidence and material, is invalid and sustainable in law.
The assessing officer is required to make an assessment of the total income or loss he may determine the sum payable by him or refund due to him on the basis of such assessment.

**Assessment Order:** After completing the assessment, the assessing officer passes an assessment order in writing. The assessment order contains a clear indication of the materials on which the income is computed and estimated. If the order suffers from failure to indicate on what material or basis the income is assessed and tax determined, the assessment is bad and liable to be set aside.

Assessees given due credit for any tax or interest paid by him under summary assessment. The balance, if any, is deemed to be tax due from him. If no refund is due on regular assessment the amount refunded under summary assessment is deemed to be tax payable by him. If amount refunded on summary assessment exceeds the amount refundable in regular assessment, the excess amount so refunded is to be tax due from him. Accordingly the assessing officer is issued a demand notice specifying the sum payable by the assessee. Copy of assessment order attached in annexure-1.

**Best Judgment Assessment:** If assessee does not cooperate in the assessment proceedings with the taxing authorities and fails to discharge his statutory duty in the manner, the assessing officer is left with no opinion but to assess him to the best of his judgment.

Before making such assessment the assessing officer can take into account all the relevant material which he has gathered. An opportunity of being heard is given to the assessee. Such opportunity is given by an assessing officer by serving a notice calling upon the assessee to show cause on a date and time to be specified in the notice, why the assessment should not be completed to the best of his judgment.
However, where a notice has been issued prior to the making of an assessment, it is not necessary to give such opportunity.

In a case where a Chief Commissioner or Commissioner issued instructions, a charted accountant is nominated for auditing the assessee’s accounts and though the concerned assessee was willing to produce the records the concerned charted accountant refuse to audit the accounts, the question arouse as to whether there was a failure on the assessee’s part to comply with the directions and consequently the best judgment assessment could be made.

The Supreme Court held that if for a various reasons the charted accountant declined to undertake the audit of the assessee’s accounts, the assessee could not be held responsible. In such a case there was no default or failure to comply with the directions issued on the Assessee’s part so as to attract. The best judgment made by the assessing officer was set aside with the directions to appoint another charted accountant within one month to get the accounts audited.

**Assessment Orders:** The assessing officer makes the best judgment assessment after taking into account or relevant material, which he has gathered. He should assess the total income or loss to the best of his judgment and determine the sum payable by the assessee or refund due to him on the basis of such assessment.

Due credit is given for any tax or interest paid by the assessee. If no refund is due on best judgment, assessment or the amount refunded under summary assessment exceeds the amount refundable on such assessment, the whole or the excess amount so refunded is deemed to be tax payable by the assessee. See annexure-2 and annexure-3.
Views gathered from the IT officials on the simplicity of the procedure for the assessment followed by the department. The positive and the negative responses are almost neck to neck. If we go through the above given figures 54% Class-I officers, 53% Class-II officers and 48% inspectors given their view as yes and 39% Class-I officers, 45% Class-II officers and 43% inspectors has
given their view as no, which is almost neck to neck (graph is also clearly showing the status). Very few responded as can’t say i.e. 7% Class-I officers, 3% Class-II officers and 9% Inspectors.

**Power of Joint Commissioner to Issue Directions in Certain Cases:** A Joint Commissioner on his own motion or on a reference being made to him by the assessing officer or on the application of an Assessee, call for and examine the record of any proceeding and which an assessment is pending and if he considers that, having regard to the nature of the case or the amount involved or for any other reason it is necessary so to do, he issued such direction as he thinks fit for the guidance of the assessing officer to enable him to complete the assessment. Such direction shall be binding in the assessing officer.

No directions which are prejudicial to the Assessee issued before an opportunity is given to the Assessee to be heard.

**Year-wise Pendency and Disposal of Cases Before CIT (A)**

<table>
<thead>
<tr>
<th>Year</th>
<th>Workload for Disposals</th>
<th>Disposals</th>
<th>Pendency</th>
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</thead>
<tbody>
<tr>
<td>1996 - 1997</td>
<td>228559</td>
<td>82831</td>
<td>145728</td>
</tr>
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<td>1997 – 1998</td>
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<td>189601</td>
</tr>
<tr>
<td>2000 – 2001</td>
<td>270537</td>
<td>98568</td>
<td>171969</td>
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</table>

Source income tax report 11

11 Income tax report, Lok Sabha Secretariat, New Delhi, April, 2002.
Figure showing the Details of Chief Commissioner Office Chandigarh

Graph 5.3 : Set targets achieved by the department

□ Class - I Officers

■ Class - II Officers

□ Inspectors

Response of Income Tax Authorities

Table : 5.3

Set targets achieved by the department

<table>
<thead>
<tr>
<th>Level</th>
<th>% Yes</th>
<th>% No</th>
<th>% Cant Say</th>
<th>Total</th>
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</thead>
<tbody>
<tr>
<td>Class – I Officers (67)</td>
<td>91%</td>
<td>8%</td>
<td>1%</td>
<td>100%</td>
</tr>
<tr>
<td>Class – II Officers (78)</td>
<td>89%</td>
<td>10%</td>
<td>1%</td>
<td>100%</td>
</tr>
<tr>
<td>Inspectors (160)</td>
<td>83%</td>
<td>15%</td>
<td>2%</td>
<td>100%</td>
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</table>

Graph 5.3 : Set targets achieved by the department

<table>
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<th>Percentage</th>
<th>% Yes</th>
<th>% No</th>
<th>% Cant Say</th>
</tr>
</thead>
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<td></td>
<td></td>
</tr>
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<td>90%</td>
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<td>80%</td>
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</tbody>
</table>

Responses

□ Class – I Officers (67) ■ Class – II Officers (78) □ Inspectors (160)
When it is asked with the authorities that they achieve the set targets 91% class 1 officers, 89% class 2 officers and 83% Inspectors are saying yes, while 8% class 1 officers, 10% class 2 officers and 15% Inspectors are saying no. 1% class 1 officers, 1% class 2 officers and 2% Inspectors don’t give any opinion regarding this. So it is clear the set targets are achieved by the department. The some officials also feel that Targets fixed are very high as compared to resources available.

**Income Escaping Assessment:** After assessing income the assessing officer believes that any income chargeable to tax has escaped assessment for any assessment year. The assessing officer has authority to assess or reassess such income and also any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of the proceedings or recomputed the loss or the depreciation allowance or any other allowance, as the case may be for the assessment year concerned (relevant assessment year).

If an assessment has been made for the relevant assessment year no action is taken after the expiry of four years from the end of the relevant assessment year unless any income chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part if the Assessee to make a return or response to a notice issued or to disclose fully and truly all material facts necessary for his assessment for that assessment year.

It is clearly mentioned by the Assessing Officer that income chargeable to tax had escaped assessment. The belief which prompts an Income-tax Officer to apply to any particular case must be that of an honest and reasonable person based upon reasonable grounds, and that the Assessing Officer may act under his section on direct or circumstantial evidence but not on a mere suspicion, gossip or rumor. The powers of the Assessing Officer are wide, but not plenary in nature. Care must be taken to note that the words used in the section are “reason to believe” and not “reason to suspect”. The expression “reason to believe” does not, however, mean a purely subjective satisfaction on the part of the Assessing Officer. The belief must be held in good faith. It cannot be a more pretence. It is open to the Court to examine whether the reasons for the belief have a rational connection or a relevant bearing to the formation of the belief are
not extraneous or irrelevant to the purpose of the section. There is no requirement in any of the provisions of the Act or under any section laying down as a condition for the initiation of the proceeding that the reasons which induced the Assessing Officer, to issue the notice must also be communicated to the Assessee. Therefore, the Assessing Officer need not communicate to the Assessee the reasons, which led him to initiate the proceedings.

After filing the return by the Assessee, the assessment reopened.

Response of Income Tax Authorities

<table>
<thead>
<tr>
<th>Assesses satisfied with your efforts / performance</th>
<th>N = 305</th>
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<tbody>
<tr>
<td>Level</td>
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<td>Class – I Officers (67)</td>
<td>71%</td>
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<tr>
<td>Class – II Officers (78)</td>
<td>83%</td>
</tr>
<tr>
<td>Inspectors (160)</td>
<td>79%</td>
</tr>
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</table>

Graph 5.4: Assesses satisfied with your efforts / performance
The above mentioned table indicates the responses given by Income Tax Authorities whether they are satisfied with the efforts or performance done by the authorities. 71% class 1 officer, 83% class 2 officers and 79% inspectors are satisfied with their performances. 27% class 1 officer, 13% class 2 officers and 20% inspectors are not satisfied. 2% class 1 officer, 4% class 2 officers and 1% inspectors can’t say anything regarding this. So the conclusion be drawn on the basis of figures that authorities are satisfied with their performances. The authorities are saying that they are performing their duties with dedication and hence satisfied.

**Issue of Notice Where Income has Escaped Assessment**

The fresh notice requiring him to furnish a return is issued by the assessing officer while making the assessment, reassessment and recomputation. The Assessee have to file a return within the specified period mention in the notice, a return of his income or the income of any other person for whom he is assessable under the act, during the previous year corresponding to relevant assessment year in the prescribed form and verified in prescribed manner.

Assessment procedure (Search & Seizure): The special procedure for assessment of search cases is laid down in the Income Tax Act 1961. Search cases are generally assessed at central circles. The investigation wing should send the proposal for centralization to the Chief Commissioner with in one month from the date of initiation of search. The centralization should be completed and the orders be issued within two months from the date of the search.
Response of Income Tax Authorities

It is asked with the authorities that the resources provided to them are sufficient to achieve the set targets. The above table shows the responses given by different authorities. 29% class 1 officers, 23% class 2 officers and 36% inspectors say yes, 70% class 1 officers, 75% class 2 officers and 62% inspectors say no. 1% class 1 officers, 2% class 2 officers and 2% inspectors don't give any opinion. Maximum numbers of officers as well as officials are not satisfied with the resources available to them. The department is properly computerized and very few staff computer literate staff to assist them in their day to day functioning which cause hindrance in achieving the set targets.
Findings and suggestions

The assessment procedure is quite complicated to understand by the Assessee. It is observed that the authorities are not co-operative at the time of assessment. Through the study, it was observed that the budget estimates were not being achieved in regard to the revenue collection of the Income Tax. The tax policies are not evaluated properly. Numbers of people do not file returns due to carelessness. Or sometime they are not aware of it. Lack of friendly attitude of the income tax authorities people hesitate to interact with them.