

ASSESSMENT OF ASSESSES IN ENTERTAINMENT SECTOR

[Action Taken by the Government on the Observations/Recommendations of the Public Accounts Committee contained in their 51st Report (17th Lok Sabha)]

**PUBLIC ACCOUNTS COMMITTEE
(2023-24)**

ONE HUNDRED AND ELEVENTH REPORT

SEVENTEENTH LOK SABHA



सत्यमेव जयते

**LOK SABHA SECRETARIAT
NEW DELHI**

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PUBLIC ACCOUNTS COMMITTEE (2022-23)

(SEVENTEENTH LOK SABHA)

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Presented to Lok Sabha on:

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LOK SABHA SECRETARIAT
NEW DELHI

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COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE

(2023-24)

Shri Adhir Ranjan Chowdhury - Chairperson

MEMBERS

LOK SABHA

2. Shri Subhash Chandra Baheria
3. Shri Thalikkottai Rajuthevar Baalu
4. Shri Bhartruhari Mahtab
5. Shri Jagdambika Pal
6. Shri Pratap Chandra Sarangi
7. Shri Vishnu Dayal Ram
8. Shri Rahul Ramesh Shewale
9. Shri Gowdar Mallikarjunappa Siddeshwara
10. Dr. Satya Pal Singh
11. Shri Brijendra Singh
12. Shri Rajiv Ranjan Singh alias Lalan Singh
13. Shri Jayant Sinha
14. Shri Balashowry Vallabhaneni
15. Shri Ram Kripal Yadav

RAJYA SABHA

16. Shri Shaktisinh Gohil
17. Dr. K Laxman
18. Shri Derek O'Brien
19. Shri Tiruchi Siva
20. Dr. M. Thambidurai
21. Shri Ghanshyam Tiwari
22. Dr. Sudhanshu Trivedi

SECRETARIAT

1. Shri Sanjeev Sharma - Joint Secretary
2. Smt. Bharti S. Tuteja - Director
3. Shri Girdhari Lal - Deputy Secretary
4. Ms. Pragya Nama - Assistant Committee Officer

INTRODUCTION

I, the Chairperson, Public Accounts Committee (2023-23) having been authorised by the Committee, do present this One Hundred and Eleventh Report (Seventeenth Lok Sabha) on Action Taken by the Government on the Observations/Recommendations of the Public Accounts Committee contained in their Fifty-first Report (Seventeenth Lok Sabha) "**Assessment of Assesses in Entertainment Sector**" relating to the Ministry of Finance (Department of Expenditure).

2. The Fifty-first Report was presented to Lok Sabha/laid on the Table of Rajya Sabha on 20th July 2022. Replies of the Government to the Observations/Recommendations contained in the Report were received. The Committee considered and adopted the One hundred and eleventh Report at their Sitting held on 5th February, 2024. Minutes of the Sitting of the Committee are given at *Appendix-I*.

3. For facility of reference and convenience, the Observations and Recommendations of the Committee have been printed in **bold** in the body of the Report.

4. The Committee place on record their appreciation of the assistance rendered to them in the matter by the Committee Secretariat and the Office of the Comptroller and Auditor General of India.

5. An analysis of the action taken by the Government on the Observations/Recommendations contained in the Fifty-first Report (Seventeenth Lok Sabha) is given at *Appendix-II*.

NEW DELHI:
February, 2024
Magha 1945 (*Saka*)

ADHIR RANJAN CHOWDHURY
Chairperson,
Public Accounts Committee

CHAPTER - I

REPORT

This Report of the Public Accounts Committee deals with the Action Taken by the Government on the Observations and Recommendations of the Committee contained in their Fifty- first Report (17th Lok Sabha) on "Assessment of Assesses in Entertainment Sector".

2. The Fifty- first Report (17th Lok Sabha), which was presented to Lok Sabha/laid in Rajya Sabha on 20th July 2022, contained 18 Observations and Recommendations. Action The Committee take strong exception to the delay in furnishing the action taken notes by the Ministry and find that Action Taken Notes in respect of only 17 Observations and Recommendations have been received from the Ministry that have been broadly categorized as under :

- (i) Observations/Recommendations which have been accepted by the Government:
Para Nos. 1, 5, 6, 7, 8, 9, 10,11, 13, 14, 15, 16

Total: 12
Chapter - II

- (ii) Observations/Recommendations which the Committee do not desire to pursue in view of the replies received from the Government:
Para No. NIL

Total: 0
Chapter - III

- (iii) Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration:
Para No.4, 12

Total: 02
Chapter - IV

- (iv) Observations/Recommendations in respect of which Government have furnished interim replies/no replies:
Para No. 2,3*,17,18

Total: 04
Chapter - V

*Action taken Note on Recommendation at Para No.3 has not been furnished by the Ministry.

3. During the detailed examination of the subject "*Assessment of Assesses in Entertainment Sector*", the Committee had identified certain shortcomings/deficiencies on the part of the Ministry of Finance, Department of Expenditure which *inter-alia* included updation of risk management system; a number of segments of the entertainment sector, viz. sports, event management, artist, animation, cable business etc. being clubbed under the same income tax assessment code; sharing of inter-departmental and intra-departmental information during the course of assessments; no monitoring mechanism to examine the details of revenue earned from overflow and from various movie rights by the film producers etc.

4. The Action Taken Notes furnished by the Ministry on the Observations/Recommendations of the Committee contained in their Fifty-first Report (Seventeenth Lok Sabha) have been reproduced in the relevant chapters of this Report. The Committee will now deal with the Action Taken by the Government on some of their Observations/Recommendations made in the original Report which require reiteration/merit comments.

5. **The Committee desire the Ministry of Finance, Department of Revenue to furnish Action Taken Notes in respect of Observations/ Recommendations contained in Chapter I and V of the Report, positively within six months of the presentation of the Report to the Parliament. The Committee further desire that some kind of responsibility may be fixed against the officers responsible for not furnishing the complete set of replies and also for the delay in furnishing the same.**

Paragraph 4 of PAC Report No. 51 (17th Lok Sabha)

6. The Committee note that for selection under scrutiny and monitoring purposes, ITD has allocated codes to the assesseees engaged in entertainment sector under six categories. Of the six categories, five categories have been assigned to Film & television sector while one category, which is ; code numbered 0906 has been allotted for 'others' which covers assesseees associated with sports, film, event management, cable business, animation etc. Audit scrutiny revealed that code wise data of assesseees available in the website of ITD showed that during FYs 2013-14, 87 per cent of assesseees in entertainment sector were falling in 'others' category of entertainment sector. Further, proportion of additions made during scrutiny assessments under code 906 against total additions made in cases relating to entertainment sector continuously increased from 66.71 per cent in FY 2013-14 to 80.62 per cent in FY 2016-17. However, the number of cases selected for scrutiny assessments under the business code 906 was not commensurate with the additions made in scrutiny assessments of cases under this code during FYs 2013-14 to FYs 2016-17 i.e.

62.74 per cent in FY 2013-14 to 67.82 per cent in FY 2016-17. Due to this anomaly, Audit observed that as a number of segments of the entertainment sector, viz. sports, event management, artist, animation, cable business etc. are clubbed under this code, segment specific refinement of assesseees may not be possible for selection for scrutiny and monitoring purposes. The Committee note from the related information furnished by the Ministry that Centralised risk identification of cases of subcategories under a particular business code such as 906 in the instant case under a risk Rule/parameter framework is possible only when (a) Specific data fields identifying and attributable to these business sub-sectors are available in ITRs; (b) Specific Third party or TDS data which is closely related to and associated to transactions in these particular sub-sectors is readily available; and (c) Such data from two different sources or fields is comparable either directly or in terms of ratios so as to ascertain a sub-sector specific risk parameter. Presently, these factors limit the segment specific refinement of the mentioned set of assesseees under a Computer Assisted Centralised risk parameter based scrutiny selection process. Further, the Committee note that separate codes have been allotted in the Income-tax return forms from AY2021-22 viz. new codes for film artists, event management, sports management, etc. and that necessary modifications in the income-tax forms have been carried out to further refine the categories of taxpayers belonging to entertainment sector so as to obtain more refined results. The Committee desire the CBDT to take effective steps to address the other limiting factors to ensure refinement of sub-sector specific risk parameters by methodical collection, retrieving, sorting and sharing of relevant information from various sources. To keep a constant watch over the rising number of high-risk assesseees' cases in new and emerging segments of the entertainment sector viz. Augmented and Virtual Reality, social videos, cloud gaming, podcasting etc., the Committee desire that the codes may be further reviewed and rationalized so as to ensure improved vigilance and identification of high-risk assesseees for detailed scrutiny.

7. The Ministry in their Action Taken Replies have stated as under:

“With regard to the refinement of sub-sector specific risk parameters, it is stated that the review of risk parameters is carried out regularly.

With regard to the review and rationalization of business codes, it is stated that in the return forms separate codes have been prescribed which include various new and emerging segments in the entertainment industry. Under the column pertaining to 'Culture and Sport', codes have been prescribed for motion picture production, film distribution, film laboratories, television channel productions, television channel broadcast, video production and distribution, sound recording studios, radio recording and distribution, stage production and activities, individual artists excluding authors, library activities, circuses and race tracks, video parlours, activities of sports and game schools.

In the return forms, new codes include those of film artists, event management and sports management. Thus, it may kindly be noted that the codes are already very detailed and further classification would not serve any additional purpose.”

8. While noting that separate codes have been allotted in the Income-tax return forms from AY2021-22 and that necessary modifications in the income-tax forms have been carried out to further refine the categories of taxpayers belonging to entertainment sector so as to obtain more refined results, the Committee had desired the CBDT to take effective steps to address the other limiting factors to ensure refinement of sub-sector specific risk parameters by methodical collection, retrieving, sorting and sharing of relevant information from various sources. Further, to keep a constant watch over the rising number of high-risk assessee's cases in new and emerging segments of the entertainment sector viz. Augmented and Virtual Reality, social videos, cloud gaming, podcasting etc., the Committee had desired that the codes may be further reviewed and rationalized so as to ensure improved vigilance and identification of high-risk assessee's for detailed scrutiny. The Committee note from the reply of the Ministry that review of risk parameters is carried out regularly and in the return forms separate codes have been prescribed which include various new and emerging segments in the entertainment industry. Under the column pertaining to 'Culture and Sport', codes have been prescribed for motion picture production, film distribution, film laboratories, television channel productions, television channel broadcast, video production and distribution, sound recording studios, radio recording and distribution, stage production and activities, individual artists excluding authors, library activities, circuses and race tracks, video parlours, activities of sports and game schools and that the codes are already very detailed and further classification would not serve any additional purpose. The Committee are of the considered opinion that with the advent of social media which is very much a part of the entertainment sector, it is imperative that the codes are reviewed to include these categories. The Committee, therefore, reiterate their earlier recommendation to include high-risk assessee's cases in new and emerging segments of the entertainment sector viz. Augmented and Virtual Reality, social videos, cloud gaming, podcasting etc., to ensure improved vigilance.

Co-ordination with other State/Central Government Departments

Paragraph 6 of PAC Report No. 51 (17th Lok Sabha)

9. ITD Manual of Office Procedure prescribed by CBDT entrusts ITD with the responsibility to liaise with other Government departments and agencies to enable income-tax authorities to get hold of vital information on assessees, both existing as well as potential. Audit noticed instances where ITD did not utilize available resources effectively for collection and analysis of data from other Central and State Government departments especially in case of two Delhi based entities for Assessment years 2011-12 to 2014-15 where non sharing of information reportedly lead to tax effect of Rs.67.99 crore including interest. Moreover, Audit also pointed out that lack of coordination with Registrar of Copyrights resulted in the royalty income of Rs.38.28 crore and Rs. 39.67 crore in the AYs 2013-14 and 2014-15 respectively not being brought to tax. In this regard, DoR informed the Committee that all the field formations of the Income Tax Department share relevant information regarding violation of provisions of any statute noticed during the course of enforcement actions like search & seizure and survey operations, with the relevant Law Enforcement Agencies(LEA).Further, specific instructions have been issued to field formations to share with Central Economic Intelligence Bureau(CEIB)the information with respect of search & seizure and survey actions, related assessment orders, appeal orders ,prosecutions ,etc. within the prescribed timelines. The information is being shared so that appropriate information network/database of offenders may be created and shared by CEIB with other LEAs. DoR also added that CEIB shares details of relevant cases investigated by other LEAs with Income Tax Department which has the effect of getting acquainted with the new and emerging trends in regard to tax evasion. Further, CBDT is undertaking measures for facilitating exchange of data regarding revenue collection of assessee among various agencies such as integrating the important financial fields in Income-Tax Returns and GST Returns. Moreover, to facilitate seamless exchange of data between CBDT and Goods and Services Network (GSTN), an MoU was signed between CBDT and GSTN incorporating the modalities of exchange and handling of data, maintaining its confidentiality etc. The process of exchange of data will help in cross verification of figures disclosed by the assesseees in the ITR and GST returns. The Committee, while expressing appreciation for the initiatives taken to strengthen the coordination mechanism with Central Economic Intelligence Bureau, Law Enforcement Agencies and Goods and Services Network, desire that endeavours should also be made to liaise with District Administration, and other Government agencies concerned with economic offences for enabling seamless exchange of data with Income Tax Department. This will further improve the database of assesseees /

offenders and will help in cross verification of figures disclosed by them during the assessment process.

10. The Ministry in their Action Taken Replies have stated as under:

“The Income-tax Department is conscious of the fact that collection of data through various sources and its analysis is the key to address the challenge of tax evasion, including through its usage in the assessment proceedings.

Organized data collection in the Department is done mainly through following methods:

- Electronic filing of IT Returns and Forms (e-filing).
- Submission of TDS/TCS statements by deduct is in electronic form (eTDS).
- Collection of information by way of automatic exchange of information under FATCA and CRS.
- Collection of information from third parties under Approved projects of I&CI.
- Compulsory quoting of PAN for certain specified transactions.
- Bulk Information exchanged through DCrIT (Systems) by the **mechanism of MoUs with other Agencies/departments.**
- Mandatory furnishing of statement by various agencies for **specified financial Transactions.**

In this context, ITD already comes in possession of information from District Administration on the registration of immovable properties **for sale/purchase of properties for value >= 30 lakhs, Statement of Financial transactions arc filed by Sub-Registrar office.**

Moreover, during the course of investigation, the IT Authority concerned may also access the data from various other state authorities/ websites of state authorities like apnakhata epanjiyan vaaban, saarathi, bhunaksha, DoRIS etc.

Signing of MoUs for information exchange

Subject to the authorization of CBDT, Directorate of Systems, Income-tax Department is exchanging information with various agencies/departments/state governments. Directorate of Systems has entered into MoU with following agencies for the exchange of information

- 1) GSTN
- 2) Ministry of Corporate Affairs
- 3) SEBI
- 4) NATGRID
- 5) Ministry of Micro ,Small and Medium Enterprises (MoMSME)
- 6) Online PSB Loans Limited(OPL)

Other than the above, Directorate of Systems is also exchanging information with CBIC and FIU-IND, where MoU is signed between CBDT and concerned agency/department. Directorate of Systems is also providing Income-tax Payee Status information to Ministry of Agriculture & Farmers Welfare for PM-Kisan (Pradhan Mantri Kisan Samman Nidhi) scheme.

11. In this regard, Central Board of Direct Taxes in their Action Taken Reply have stated as under:

“Data is also being shared with Government of Haryana, also Government of Maharashtra, Tamil Nadu etc. In this regard, kind reference is invited to the latest section 138 notification issued by the ITA division, Notification under section 138 of Income Tax Act dated 16.02.2023 issued by CBDT (copy enclosed).

Over the last few years, the mechanism of sharing of information with other agencies have both widened and deepened in scope and execution as, inter-alia, bulk sharing of information is also being carried out with various agencies in conformity with the MoUs entered with them. This has led to effective bi-directional sharing of Information as far as ITD is concerned.

However, with regard to sharing of information with the District Administration, the Systems Directorate has opined that Signing MoUs with various District Administrations may not be feasible. A better option may be to sign the MoUs with State Governments, who can share the information with District Authorities after obtaining consent of ITD.”

12. While appreciating the initiatives taken to strengthen the coordination mechanism with Central Economic Intelligence Bureau, Law Enforcement Agencies and Goods and Services Network, the Committee had recommended that endeavour should also be made to liaise with District Administration, and other Government agencies concerned with economic offences for enabling seamless exchange of data with Income Tax Department so as to help in cross verification of figures disclosed by them during the assessment process. In this regard, the Ministry in their action taken reply have inter alia submitted that over the last few years, the mechanism of sharing of information with other agencies have both widened and deepened in scope and execution as, inter-alia, bulk sharing of information is also being carried out with various agencies in conformity with the MoUs entered with them resulting in effective bi-directional sharing of Information as far as ITD is concerned. However, with regard to sharing of information with the District Administration, the Systems Directorate has opined that MoUs may be signed with State Governments, who

can share the information with District Authorities after obtaining consent of ITD. The Committee, therefore, while recommending that Systems Directorate may sign the MoUs with State Governments for sharing the information with District Authorities desire that further appropriate action may be taken to ensure seamless exchange of data with Income Tax Department and thereby enabling effective and prompt assessment process.

Variation in treatment of write off of inventory of film rights and pre-operative expenses

Paragraph 12 of PAC Report No. 51 (17^hLok Sabha)

13. *Audit also noticed that there was lack of uniformity in allowing 'pre-operative expenses' by the AOs despite the facts and circumstances being similar in nature. This is indicative of inconsistent approach adopted by the AOs in identical cases. As per DoR, allowance of pre-operative expenses is decided by the AO on a case to case basis, depending upon facts of each case while following judicial discipline. DoR further added that under the Faceless Assessment Scheme all the assessment proceedings, including the scrutiny assessments of cases related to film and television industry, unless centralised, are conducted electronically, through team-based assessment. Under this Scheme, the process of Review has been built to facilitate an error-free assessment order. The Committee desire that clear instructions for the allowance of pre operative expenses in various scenarios may be issued and the Assessing officers encouraged to share information on a specified platform, as already emphasized upon, in case new issues are involved. The Committee also trust that with the launch of Faceless Assessment Scheme, a uniform approach will be adopted for assessment of similar cases.*

14. The Ministry in their Action Taken Replies have stated as under:

“Section 35D of the Income-tax Act provides that the assessee may, in accordance with and subject to the provisions of this section, be allowed a deduction of an amount equal to one-fifth of specified pre-operative expenses in each of the five successive previous years beginning with the previous year in which the business commences or, as the case may be, the year in which the extension of an undertaking of the assessee is completed or a new unit commences production or operation. These expenses are as under:

(a) expenditure in connection with-

- (i) preparation of feasibility report;
- (ii) preparation of project report;
- (iii) conducting market survey or any other survey necessary for the business of the assessee;
- (iv) engineering services relating to the business of the assessee:

(b) legal charges for drafting any agreement between the assessee and any other person for any purpose relating to the setting up or conduct of the business of the assessee;

(c) where the assessee is a company, also expenditure-

- (i) by way of legal charges for drafting the Memorandum and Articles of Association of the company;
- (ii) on printing of the Memorandum and Articles of Association;
- (iii) by way of fees for registering the company under the provisions of the Companies Act, 1956 (1 of 1956);
- (iv) in connection with the issue, for public subscription, of shares in or debentures of the company, being underwriting commission, brokerage and charges for drafting, typing, printing and advertisement of the prospectus;

(d) such other items of expenditure (not being expenditure eligible for any allowance or deduction under any other provision of this Act) as may be prescribed.

As can be seen above, pre-operative expenses involve various natures of transactions and there may be various modes of payment between parties as there are variety of scenarios for preoperative expenses incurred by assessees. Therefore, prescribing uniform approach on the issue of pre-operative expenses may adversely affect the assessees, which needs to be decided on case to case basis by assessing officers.”

15. The Committee had, in their Report on the subject, expressed trust that with the launch of Faceless Assessment Scheme, a uniform approach will be adopted for assessment of similar cases. The Ministry in their Action Taken Reply have *inter alia* stated that pre-operative expenses involve various types of transactions and there may be various modes of payment between parties as there are variety of scenarios for preoperative expenses incurred by assessees. Therefore, prescribing uniform approach on the issue of pre-operative expenses may adversely affect the assessees, which needs to be decided on case to case basis by assessing officers. The Committee do not find the reply of the Ministry justifiable as lack of uniformity in allowing 'pre-operative expenses' by the AOs was pointed out due to the fact that the AOs were found adopting inconsistent approach in identical cases despite the facts and circumstances being similar in nature. The Committee, therefore, reiterate their earlier recommendation that clear instructions for the allowance of pre operative expenses in various scenarios may be issued and the Assessing officers encouraged to share information on a specified platform desire that

proper internal controls should be applied to address such issues in the new Faceless Assessment System.

Impact Assessment of ITBA

Paragraph 17 of PAC Report No. 51 (17th Lok Sabha)

16. *The Committee have been repeatedly apprised of the measures taken by the Ministry particularly of the ITBA which is being termed as a revolutionary development in the process of income tax assessment. The Committee would emphasize in this regard that ITBA being a mere tool can be effective only to an extent, as per design, and may thus be not treated as a panacea. The Committee, while expressing hope that the new system addresses the systemic lacunae, would also emphasize on the aspect that no software can parallel human cognitive abilities. In light of the above, the Committee would like to stress on the need for undertaking an Impact Assessment exercise to ascertain the utility of ITBA, the problem areas and the loopholes that may arise in the application. The Committee believe that this will help enhance the effectiveness of ITBA and also minimize instances of evasion of tax.*

17. The Ministry in their Action Taken Replies have stated as under:

“It is submitted that the C&AG is currently carrying out the IT-Audit of ITBA. Among other things, the officers of the C&AG, during this IT-Audit of ITBA are verifying that the functionalities of modules of ITBA application have been developed and are working as envisaged and the intended benefits have been achieved including ease of tax administration, and that ITBA application has effective interfaces with other IT Applications used for assessment functions.

18. Vetting Comments of C&AG are as under:

“Presently, Audit is not in a position to offer comment on effectiveness of ITBA and effectiveness of interfaces of ITBA with other systems/application viz. CPC-ITR, CPC-TDS, e-filing etc., as, audit of ITBA is still under process due to pending/delayed access to the UAT environment ITBA/CPC-ITR and assisted data query facility by the CBDT for almost two years, despite sufficient pursuance with the Department.”

19. The Ministry in their response to audit comments stated as under:

“As mentioned above, the Impact Assessment exercise, desired by the Hon'ble PAC, is underway in the form of a full-fledged audit of ITBA. Under this audit, access of UAT environment of ITBA has already been provided to the officers of C&AG. Access to other applications, as requested by the officers C&AG is also being provided.”

20. As regards the recommendation of the Committee for undertaking an Impact Assessment exercise to ascertain the utility of ITBA, the Department of Revenue in their Action Taken Reply have inter alia submitted that the Impact Assessment exercise, desired by the Hon'ble PAC, is underway in the form of a full-fledged audit of ITBA. Under this audit, access of UAT environment of ITBA has already been provided to the officers of C&AG. Access to other applications, as requested by the officers C&AG is also being provided. The Committee, while emphasizing upon time bound completion of the Impact Assessment exercise of the ITBA would like to be apprised of the outcome of the initiative at the earliest.

NEW DELHI:
February, 2024
Magha 1945 (*Saka*)

ADHIR RANJAN CHOWDHURY
Chairperson,
Public Accounts Committee