

APPENDIX 'A'

CHANGES IN THE POLICY, LAW, RULE ETC. BY THE GOVERNMENT AT THE INSTANCE OF AUDIT

Value addition or the positive difference made in relation to integrity of the financial statements, compliance to the rules, the standards of propriety and performance through audit is the measure of impact of audit. The impact of audit is the aggregate value of its findings in all local audit inspection reports issued during the year and the value of the findings included in the Audit Reports of the C&AG to the Parliament/State legislatures.

In a chapter exclusively devoted to impact of audit, in the annual administrative report of the C&AG called 'Performance Report of Indian Audit and Accounts Department 2006-07', the C&AG has brought out that the entities in the Union/State Governments accepted audit findings for overpayments/under recoveries amounting Rs. 17,006.83 crore during 2006-07 and during the previous two years 2005-06 and 2004-05 such non/short recoveries accepted by auditable entities were Rs. 7,996 crore and Rs. 4388 crore respectively. The total amount of overpayments/short recoveries pointed out in Audit during 2004-07 was as under:

Year	Total overpayment/short recoveries pointed out in audit (Rs in crore)
2004-05	19,769
2005-06	34,003
2006-07	46,053

Till the time of printing of Audit Reports of relevant years Union/State Governments had conveyed acceptance to the extent of amounts indicated in above para.

Further, money value of the paras contained in the 12 Audit Reports on the accounts and transactions of the Union Government and 64 (excluding three Audit Reports of Local Bodies) Audit Reports in respect of the States and Union Territories amounted to Rs. 8,505.20 crore during 2006-07.

Since audit is carried out on a test check basis, the quantum of overpayments/under recoveries assume greater significance. More important, as the Annual Performance Report says, apart from this visible impact 'much more significant but indeterminable outcome of audit lies in the preventive and assurance values'. Further, Audit was instrumental in changes made in the policy, law and other significant changes by Government based on audit observations to avoid recurrence of similar irregularities—these details are also contained in the Annual Performance Report.

The above impact alone amounted to Rs. 22.77 for every rupee spent on Audit in respect of cases relating to the year 2006–07, excluding the value of assurance provided, system improvements and deterrent value.

Certification of accounts of Government companies and corporations: C&AG's supplementary audit under Section 619 (4) of the Companies Act, 1956 during 2006–07, of 12 Central PSUs and 33 State PSUs resulted in the revision of accounts leading to increase/decrease in the reported profit/loss by Rs. 1,727.43 crore. Where the PSUs did not revise their accounts, comments were issued on their accounts. These comments pointed out understatement/overstatement of reported profit/loss by Rs. 7,429.80 crore (Central PSUs: Rs. 562.16 crore and State PSUs: Rs. 6,867.64 crore) and understatement/overstatement of assets/liabilities by Rs. 35,908.49 crore (Central PSUs: Rs. 1,320.00 crore and State PSUs: Rs. 34,588.49 crore).

Besides monetary impact, the changes made in the policy, law, rules and other significant changes made by the Government on the basis of audit observations in the recent past are briefly explained below:

UNION GOVERNMENT

I- Change in Policy:

Ministry of Finance:

Withdrawal of 'Levy of duty on the basis of capacity of production on certain products of iron and steel under compounded levy scheme': In order to evaluate the detailed procedure formulated by the Government to implement the levy of duty on capacity of production basis on certain products of iron and steel under compounded levy scheme and its operation with special emphasis on its impact on revenue collection, a review was included in Audit Report No. 11 of 2000. The audit findings pointed out:

- lacunae in scheme formulation;
- lapses in implementation;

In view of recommendation of Audit for re-examination of the scheme, the Finance Minister, while presenting the Budget for 2000–01, admitted that the scheme did not work and scrapped it. The earlier system of levy of duty on *advalorem* basis was restored.

Ministry of Textiles:

Irregularities in release of subsidy amounting to Rs. nine crore under 'Janata Cloth Scheme' pointed out by Audit in Report No. 4 of 1998 included violation

of the norms, its misuse, and non-availment of benefits by the intended beneficiaries. As a result, the entire amount of Rs. nine crore was recovered. The Government considered all aspects of the Janata Cloth scheme and a final decision was taken to discontinue the scheme with effect from April 1998.

Ministry of Railways:

Introduction of policy ensuring recovery of maintenance charges in respect of Road Over Bridges/Road Under Bridges: As per provisions of the Indian Railway Code for Engineering Department, if the cost of Road Over Bridge/ Road Under Bridge (ROB/RUB) was shared by the Railways and State Government/ Road Authority, the maintenance charges are to borne by the Railways and State Government/ Road Authority in proportion to their respective shares of cost. An agreement clearly spelling out the liabilities for bearing initial as well as recurring costs was to be signed with the concerned party before commencement of work. Audit, through various reported paragraphs, had observed that Railways had neither executed the agreements nor were they recovering the recurring maintenance charges. An audit para pointing out this lapse was also printed in Report No. 8 of 2004.

Keeping in view the problems faced in raising bills for maintenance of ROB/RUBs, Railways had introduced a new policy whereby instead of raising bills annually, the parties were asked to pay one time capitalized maintenance charges and collect them from the sponsoring authorities in advance. The signing of agreement and collection of capitalized maintenance charges should be completed before opening of ROB/RUB to traffic.

Ensuring economic feasibility: A large number of items used in the Railways are manufactured in house in the Railway Workshops. Audit scrutiny of records of carriage and wagon workshop, Matunga had revealed that some items which had been manufactured by workshop were also purchased from the market. A comparison of the inhouse manufacturing cost with the cost of purchase from trade had revealed that the purchase from market was much cheaper. Audit had found that Railways had incurred avoidable expenditure of Rs. 2.64 crore in manufacturing 45 categories of items which were available at cheaper rates in the open market. On this being taken up through the Audit Report No. 8 of 2004, the workshops engaged in manufacturing activities were given instructions to make regular reviews and analysis by comparing the costs and quality of the items with those available in the market and stop manufacture of those which are available at cheaper rates in the market.

Other Ministries:

Undue favour by extending group discount exceeding norms: In the Audit of New India Insurance Company and National Insurance Company, Audit detected that these companies were issuing group policies on undue and irregular terms and conditions to Golden Trust Financial Services (GTFS) thereby, incurring loss of Rs. 21.57 crore and Rs. 5.59 crore respectively during the period January 2001–March 2005. This was commented upon in paragraph 11.3.1 of Audit Report No. 12 of 2006. The Insurance Companies, issued

instructions to their respective operating officers that all new long term policies, tailor made group mediclaim policies and PA policies should be referred to for approval of General Managers (Technical) at head office. This change of policy meant that a higher scrutiny would deter such irregular concessions or else would be detected at the head office level.

Calamity Relief Fund—Introduction of Monitoring Mechanism: Ministry of Finance had, in January 1991 notified the 'Scheme for Constitution and Administration of Calamity Relief Fund and Investment thereof' for each state. The scheme provided that Calamity Relief Fund (CRF) would be constituted for the purpose of financing natural calamity relief assistance. In chapter 1 of Audit Report No. 3 of 1999, it was commented that many states had not set up a separate CRF as envisaged under the scheme and continued with the practice of incurring expenditure on calamity relief from general revenues. Funds received by some states were either booked as state receipts or were parked in Revenue Deposits, Personnel Ledger Accounts, Civil Deposit, Bank etc. Audit scrutiny revealed endemic diversion of funds to the extent of Rs. 519.54 crore by state governments on activities not connected with relief measures. The Report also highlighted excess expenditure towards provision for relief assistance beyond the prescribed norms, making payment without damage assessments, excess payment on doubtful grounds and in some cases double payments. Ministry of Home Affairs introduced monitoring mechanism of expenditure from Calamity Relief Fund to avoid continuance of irregularities pointed out by Audit.

Review of the Scheme for levy of duty on the basis of capacity of production on processed fabrics: Paragraph 2 in Audit Report 11 of 2002 pointed out defects in the provision of the scheme for levy of duty on the basis of capacity of production on processed fabrics and irregularities in implementing the scheme. The government restored the advalorem rates of duty on processed fabrics in these cases.

Irregular inclusion of House Rent Allowance: Audit para 9.17 in Report No. 4 of 2002 highlighted irregular inclusion of element of HRA in calculation of overtime allowance resulting in extra/avoidable expenditure of Rs. 30.14 crore by Mumbai Port Trust. This finding resulted in Mumbai, Port Trust withdrawing the irregular inclusion of HRA in calculating overtime allowance from March 2002. This had an impact on preventing loss of revenue and avoidable expenditure in future years in such calculation.

Ministry of Defence:

Raising permissible rejection limit to cover up defective production: General Managers of three Ordnance factories raised the acceptable levels of rejection pertaining to particular items so as to cover the higher rejections that actually occurred. The amount involved in such abnormal rejections was Rs. 2.26 crore. On this being taken up in para 51 of Audit Report No. 7 of 2000, all ordnance factories were instructed in May 2000 not to revise the normal rejection percentage upward without the approval of Ordnance Factory Board.

II-Change in Law:

Ministry of Finance:

Adjudication of demand cases: In Audit Report No. 11 of 1999, relating to Central Excise Receipts, failure of the departmental officer in not complying with the executive instructions of the Board to finalize adjudication cases within six months of issue of so cause-cum demand notice involving duty of Rs. 3387 crore and interest of Rs. 1697 crore was highlighted. The Report also commented on loss of duty of over Rs. 58 crore in 273 cases since demands were not raised in time.

In view of recommendation of Audit, the Government made the following amendments in the Central Excise Act, 1944 with effect from 11 May 2001:

- It was made mandatory for the assessing officer to adjudicate the case, as far as possible, within one year in cases of duty short paid as a result of fraud, mis-declaration, etc, and within six months in other (normal) cases.
- The time limit for raising of demand was increased from six months to one year so as to reduce chances of cases becoming time barred.

Amendment of scheme of taxation of companies under special provisions of Income Tax Act (Section 115 JA): Under the normal provisions of the Act, claim of higher depreciation on account of revaluation of assets is not allowed for computing income liable to tax. However, a corresponding provision was not available under the Minimum Alternate Tax (MAT) provisions that resulted in some companies resorting to revaluation of assets to claim higher depreciation. This was pointed out by Audit in Chapter I of Audit Report No. 13 of 2004, Union Government (Direct Taxes).

As a result, Section 115JB(2)(g)(iia) amended by Finance Act, 2006 with effect from 1 April 2007 laid down that claim of higher depreciation through revaluation of assets debited to the profit and loss account, will be added back while computing book profits liable for tax.

Assessment of private schools, colleges and coaching centres: In chapter III of Report No. 13 of 2004, Union Government (Direct Taxes), Audit had pointed out following deficiencies in the assessments of private schools, colleges and coaching centres. A brief of the audit points and action taken thereon is mentioned below:

There was no provision in case of exemption under section 10(23C) (vi) to furnish the audited accounts with audit certificate along with returns of income. Bulk of the assessments of private schools, colleges and charitable trusts were, by and large, completed in summary manner.

Finance Act, 2005 has inserted a provision as per which the assessee is supposed to file its tax return every year with the copy of audited balance sheet. CBDT issued guidelines in October 2005 for selection of cases for scrutiny of income tax returns which specifically provide for the selection of cases of universities and other educational institutions subject to monetary limits prescribed.

Audit had also pointed out that trusts running educational institutions were earning income by way of donations, building fund, swimming pool

charges, poor fund, etc. apart from income from educational activities which was also being exempted from income tax.

An amendment has been made through Finance Act, 2006 whereby anonymous donations made to wholly charitable trusts and institutions other than religious trusts and institutions shall be charged to tax.

Audit had further pointed out that since there were no provisions for withdrawing the exemption notification granted to assesses for availment of exemption under section 10(23C), ineligible assesses who were not fulfilling the conditions laid out in section 10(23C) were also availing exemption.

Finance Act, 2004, with effect from 1 October 2004 inserted a new proviso at 10(23C) (via) to enable withdrawal of approval or rescind the notification in case the activities of the assessee are not genuine or are not being carried out in accordance with, all or any of the conditions, subject to which it was notified or approved.

Refunds under the Income Tax Act, 1961: Under section 143(4), if no refund is due on regular assessment or the amount refunded under sub-section (1) exceeds the amount on regular assessment, the whole or excess amount so refunded shall be recovered from the assessee. However, there is no provision under the Act for levy of interest on excess refunds during summary assessments. This was commented upon in Chapter 5 of Report No. 12A of 2002.

A new provision was introduced as section 234D by Finance Act, 2003 with effect from 1 June 2003 which laid down that where, as a result of regular assessment, no refund is due to the assessee or the amount refunded exceeds the amount refundable on account of regular assessment, interest shall be levied at the prescribed rates on such excess amounts refunded during summary assessments.

III-Change in Rules:

Ministry of Finance:

Provisional Assessments: With a view to ascertain the adequacy of the system, a review on provisional assessment cases in the central excise commissionerates was made by Audit and the following shortcomings were pointed out:

- ❖ No time limit was prescribed for finalization of provisional assessment.
- ❖ Non-reconciliation of number of cases and duty blocked in provisional assessment and cases.
- ❖ Non-levy of interest on recovery of duty on final assessment

This review para was discussed by the Public Accounts Committee which recommended for a statutory time limit for finalization of provisional assessment cases. Rules were amended on 1 July 2007 and as per Rule 7 of the revised Central Excise Rules 2002, time limit of six months has been fixed for final assessment which may be extended for a further period not exceeding six months by the Commissioner of Central Excise.

A further review of the provisional assessment cases was carried out and included in Audit Report No. 7 of 2007 (Performance Audit-Chapter-III), to assess the following:

- ❖ The impact of the fixation of time limit on pace of clearance of provisional assessment cases,
- ❖ Efficiency of internal controls and monitoring mechanism in protecting the interest of revenue and
- ❖ The adequacy and effectiveness of rules, regulations and procedures governing disposal of provisional assessment cases

Ten constructive and implementable recommendations were given to remedy the systemic weakness identified by Audit. Of these, nine recommendations have been accepted by the Ministry.

Undervaluation of goods manufactured on job work basis: The Supreme Court in the case of M/s Ujagar Prints and others, ruled that the value of goods manufactured on job work basis shall be determined by adding processing charges (job work charges) to the landed cost of raw materials including all costs incurred for bringing the raw materials to the premises of the job worker.

Audit pointed out that excise duty was being paid on behalf of principal manufacturer by job worker at the time of clearance of finished goods. The assessable value was arrived at under Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 which was lower than the transaction value of principal manufacturer of the same product under Section 4 of the Central Excise Act. This resulted in undervaluation of finished goods and consequent short payment of central excise duty. In this connection, paragraph 9.2 in Audit Report No. 11 of 2005 and paragraph 11.4 in Audit Report No. 7 of 2006 refer.

In the Union Budget 2007–08, Government took remedial measures by introducing a new Rule 10 A under Central Excise Valuation Rules, 2000 (Determination of Price of Excisable Goods) stipulating payment of duty on transaction value of the same goods as adopted by the principal manufacturer.

Patent and propriety medicaments brought under section 4A (Maximum Retail Price): Maximum Retail Price (MRP)-valuation of excisable goods under section 4A was introduced to check undervaluation so as to safeguard government revenue and prevent revenue loss due to adoption of lower assessable value by job workers in respect of goods manufactured and cleared by brand owners.

Paragraph 2.5.1 of Report No. 11 of 2003, Union Government (Indirect Taxes-Central Excise & Service Tax) pointed out that products of patent and propriety medicaments were not brought under section 4 A Maximum Retail Price (MRP) and there was an estimated loss of Rs. 471 crore from April 1998 to December 2001 to the Government.

Government of India accepted audit views and brought patent and propriety medicaments under section 4 A (MRP) vide notification dated 7 January 2005.

Ministry of Railways:

Introduction of levy of interest for delayed payment: Container Corporation of India (CONCOR) had been collecting all charges including freight from the

customers with effect from 1 November 1990. Though, as per agreed procedure, CONCOR was required to deposit the Railway freight at the prescribed rates with the Traffic Accounts Office of the originating Railway on fortnightly basis by 25th day of the month for the first fortnight and by 10th day of the following month for the second fortnight, Audit had found that the amount was being remitted very late. The loss of interest on belated payments worked out to Rs. 5.93 crore in test check.

Keeping in view the audit objection on delay in payment to Railway by CONCOR, Railway Board made provisions in the rules vide circular dated 12 December 1999 and 23 May 2000 to levy interest at the rate of 12.50 per cent on delayed payment and issued instructions to Zonal Railways.

Changes in Freight Rules: As per rules contained in Indian Railway Conference Association (IRCA), goods tariff, commodities which can not be loaded up to marked carrying capacity of a wagon were booked given a fixed minimum weight for charging freight. Time and again, Audit had pointed out anomalies in the minimum weight conditions prescribed and the quantities actually loaded by the consignors which clearly indicated that the wagons can be loaded more than the weight prescribed. In most of the cases, consignors were loading the wagons up to the prescribed weight resulting in under utilisation of the actual capacity of the wagon.

In order to overcome these lacunae, Railway Board changed the rules from 1 April 2005 and decided that freight in all cases should be recovered on the basis of marked carrying capacity of a wagon. With this change, the scope for underutilisation of capacity of the wagons has diminished.

Introduction of Haulage charges: Taking a serious note of running of under load container trains, Railway Board in September 1993 had instructed Zonal Railways to check the formation of all BFKI and BOX wagon trains operating on container circuits and ensure that trains are formed with full loading of 40 BFKI and 45 BOX wagons.

Audit scrutiny of records at a Domestic Container Depot of Western Railway had revealed that the Railway Board's instructions regarding running of Flat/BOX wagons with full load were not being followed and approximately 77 per cent of the container trains were being run with short load resulting heavy loss of revenue on account of underutilisation of capacity of Railway locomotives, line and crew.

In order to ensure that trains of CONCOR are run with stipulated load, Railway Board introduced a system wherein CONCOR is required to pay haulage charges for a minimum number of containers irrespective of the fact whether they actually load that number of containers or not.

Ministry of Urban Development:

Out-of-turn allotments of Government residential accommodation: There were several discrepancies in out-of-turn allotments of Government residential accommodation by the Ministry of Urban Development. On being pointed out by Audit in paragraph 9.1 of Report No. 2 of 1995, the Ministry issued revised

guidelines for discretionary allotments of General Pool Residential Accommodation.

IV Other Significant Changes:

Ministry of Railways:

Creation of Special Railway Safety Fund: Safety performance of Indian Railways, which is the principal mode of transport in the country, is of vital significance. A number of committees studied safety aspects in Railways and recommended various measures from time to time to improve the system and reduce accidents. Organizationally, Railway Board has a Safety Directorate headed by an executive Director. At Zonal and Divisional levels also, there are earmarked officers dealing with safety.

In paragraph 5.3 of the Audit Report for the year 1997–98, Audit had observed that the progress of works related to safety such as track renewal, construction and rehabilitation of bridges, etc. was very slow endangering the safety of the passengers and property. Further, there was no monitoring mechanism for keeping track of accidents and there was underreporting of accidents. Commissioner of Railway Safety (CRS), who is responsible for conducting inquiries of the major accidents, was not able to enquire all the accidents. Many new systems such as providing of Automatic Warning Systems, Communication devices to have direct link with driver, guard and control, etc were yet to be provided.

Audit findings were viewed seriously by the Public Accounts Committee and thereafter Ministry of Railways created a Special Railway Safety Fund (SRSF) and prepared a plan for clearance of the arrear of safety related works in a time bound manner. Rs. 17,000 crore was allocated under SRSF. Apart from track renewal works, the Fund was also utilized for replacement of distressed bridges, improving Signal and Telecommunication system, and introduction of new design rolling stock. Railway also initiated various measures to improve Safety performance. These were (1) Track Circuiting works (2) Provision of Auxiliary Warning System on trains and tracks, (3) Provision of Mobile Train Radio Communication system and (4) Train Activated Warning Device at Level Crossings.

STATE GOVERNMENT

I- Changes in Policy:

Ensuring value for Money : In para 4.1 of Audit Report relating to Government of Andhra Pradesh for the year 1999–2000, Audit commented on an expenditure of Rs. 34.78 crore from November 1995 to June 2000 on wage of work-charged employees sitting idle for five years with a recurring liability of Rs. 11.41 crore per annum.

During the PAC discussion held on 9 November 2005, Chief Engineer (Projects), stated that over a period of five years, staff was redeployed to other units and other departments. As on 30 September 2005, the number was reduced to 936.

The Public Accounts Committee recommended redeployment of the surplus work-charged staff to needy units/new projects coming up and suggested not to recruit work-charged staff in future.

Government of Andhra Pradesh-Social Welfare Department

Ensuring Government funds in Government accounts only: Audit pointed out that the funds relating to State schemes were deposited in banks outside the Government accounts. Government, in the Explanatory Notes to the audit para, stated that instructions had been issued to the Deputy Directors of Social Welfare to remit to the Government accounts such of the amounts available in banks, post offices, etc., which is not immediately required. Government further stated that a strict watch would be maintained over the funds kept outside the Government account and would ensure that no amount is kept outside the Government account without proper authorization and unless the circumstances absolutely warrant such keeping in public interest.

Government of Andhra Pradesh-Labour Department

Rehabilitation of Child labour: There was no nodal department at State level to monitor the rehabilitation of child labour. Consequent to an audit enquiry issued during the conduct of review, the Government in School Education Department issued orders entrusting the responsibility of rehabilitation and mainstreaming of 'out of school' children to the State Project Director, DPEP at State level and Assistant Project Coordinator, DPEP at district level.

In the Explanatory Notes to audit para, Government also stated that a website was created exclusively for child labour by the Labour Department and a child labour tracking system introduced in the said web site by the Labour Department.

II- Change in Rules:

Government of Maharashtra:

Accounting of interest earned on government funds: Maharashtra Prathmik Shikshan Parishad (MPSP) had earned interest of Rs. 7.21 crore during 2002-04 on amounts kept in fixed deposits and saving accounts which remained unutilized. This was pointed out by Audit in March 2005 to MPSP which stated that in the absence of instructions from Government of India (GOI) the amount of interest was lying with MPSP. As a result, Government of India inserted suitably a paragraph in their Manual of Financial Management and Procurement under SSA (paragraph 89.4). Simultaneously, Government of India directed (April 2005) the MPSP to take into account the interest accrued in a year against the release of GOI's and State Government's share towards the release of funds for Sarva Siksha Abhiyan (SSA) for the next financial year.

Government of Uttar Pradesh:

Introduction of ceiling on Out of Pocket Expenses to Minister: As no limit was fixed on the Out of Pocket Expenses (OPE) of Ministers in the Uttar Pradesh Minister (Travelling Allowances) Rules, 1997, they charged daily allowance on actual basis ranging from Rs. 1,597 to Rs. 19,165 per day without producing any bill or supporting vouchers. On being pointed out by Audit, the

Government responded by amending the Rules (October 2002) and fixed ceiling on OPE at the rate of Rs. 301 per day within the State and Rs. 501 per day outside the State subject to the ceiling of Rs. 15,000/- per month.

III. Other significant changes:

Government of Uttar Pradesh:

Survey and Planning: To ensure adequate availability of road network and its constant upgradation, Public Works Department was required to conduct survey twice a year on earmarked points, i.e., count stations of various categories of roads viz. National Highways (NHs), State Highways (SHs), Major District Roads (MDRs) and Other District Roads (ODRs)) to gauge the traffic density and fix the priorities for their upgradation, wherever necessary. However, survey was conducted only once in a year, that too, ranging from 12 to 56 per cent in respect of NHs and SHs during 1997–2001 and a few count Stations on MDRs and ODRs.

The matter was discussed in PAC meeting held on 29–30 August 2005. The PAC directed the Public Works Department to conduct surveys regularly for the proper planning of strengthening and upgradation of roads. Engineer-in-chief issued orders for necessary action (November 2005).