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Working Paper

Studying Litigation under Section 144: Evidence from ITAT Decisions

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About Esperti Fiscalli

A tax research and advisory platform set up by senior IRS officers with decades of experience working for the Government of India.

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- Capacity Building for Tax Compliance
- Discuss matters related to I.T. Systems
- Demystify and explain tax laws in simple language tax challenges
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Executive Summary

This study examines recurring patterns of litigation arising from best judgment assessments under Section 144 of the Income-tax Act, 1961¹ through an analysis of 181 decisions across the Mumbai, Delhi, Bangalore, and Kolkata Benches of the Income Tax Appellate Tribunal pronounced between 2021 and 2025. The study focuses on understanding the circumstances in which Section 144 is invoked, the factors contributing to non-participation by taxpayers during assessment proceedings, and the procedural and institutional challenges that contribute to disputes continuing through the appellate process, with the objective of identifying areas where administrative and procedural reforms can reduce preventable litigation.

The findings indicate that while non-response by taxpayers constitutes a significant category of cases, a substantial proportion of disputes are also linked to administrative and procedural factors. These include ineffective service of notices, digital access barriers, portal-related issues, inadequate opportunity during proceedings, gaps in fact-finding, and the absence of effective resolution at the first appellate stage. The study finds that many disputes reaching the ITAT are remanded for fresh adjudication, effectively restarting the assessment process.

Key Findings

Primary Factors: Most Section 144 disputes (71.8%) arose from non-compliance with statutory notices. Cases involving non-filing of returns accounted for 15.4% of the sample, while 16% involved mistaken or invalid invocation of Section 144.

Contributing Factors: Avoidance or non-response by assesseees constituted the single largest contributing factor (35.9%). However, a significant proportion of cases was linked to administrative and systemic issues, including ineffective service of notices or incorrect communication endpoints (19.3%), digital access barriers (9.9%), portal or system malfunctions (2.8%), and inadequate or ineffective opportunity provided during proceedings (7.2%). Health-related vulnerabilities, representation failures, and documentation limitations also emerged as recurring factors contributing to non-participation.

Appellate and other Assessment Stage Issues: In 56.4% of the cases analysed, issues persisted at the first appellate stage, which, if effectively addressed there, may have reduced the need for further litigation before the ITAT. In addition, 32.6% of cases reflected gaps in fact-finding or issues in estimation at the assessment stage.

Outcomes of ITAT Appeals: A substantial proportion of the cases analysed (61.3%) were remanded by the ITAT to the lower authorities for fresh adjudication, effectively restarting the dispute resolution process. Only 6.1% of cases were decided fully in favour of the Revenue, while 28.7% were decided fully in favour of the assessee on merits. In 11.6% of cases, the assessment itself was quashed as void ab initio or otherwise bad in law.

¹ Corresponding provision: Section 271, Income-tax Act, 2025

Timelines for Disposal: Based on cases for which relevant dates were available, the median time from the date of the assessment order to disposal by the ITAT was approximately 4.9 years, while the median time from the assessment order to the CIT(A) order alone was 3 years. Where matters are subsequently remanded, the dispute resolution cycle restarts, resulting in further delay.

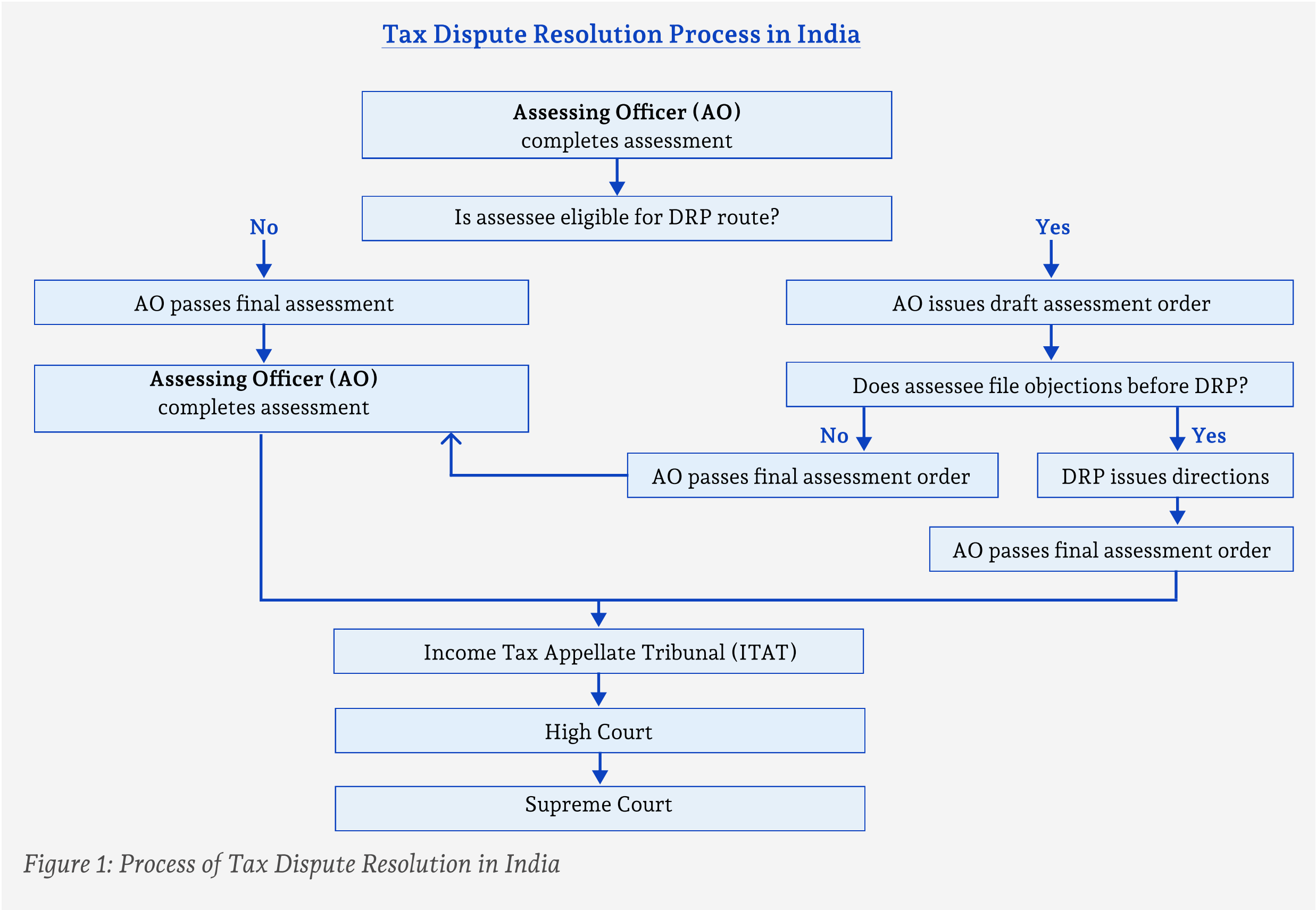
Key Recommendations

- The study recommends procedural and institutional reforms aimed at reducing preventable litigation and improving participation at earlier stages of the process. Key recommendations include:
- Introducing a “genuine hardship” protocol for situations involving serious illness, portal failures, and comparable circumstances beyond the taxpayer’s control.
- Mandating a draft order mechanism which enables taxpayers to submit additional evidence before the finalisation of the assessment.
- Creating a statutory “grace and cure” window that allows taxpayers a limited opportunity to furnish material before the finalisation of the assessment.
- Statutorily treating Section 144 orders as rectifiable orders and permitting the introduction of additional evidence through the existing Section 154² rectification mechanism.
- Recognising “digitally excluded” taxpayers and providing alternative modes of compliance, along with assisted support programmes for navigating digital compliance requirements.
- Strengthening notice delivery systems through periodic verification of communication details and additional channels of taxpayer communication.
- Strengthening the effectiveness of the First Appellate Authority in deciding appeals on their merits.

² Corresponding provision: Section 287, Income-tax Act, 2025.

Introduction

Tax litigation in India follows a structured, multi-tiered process beginning with assessment by the Assessing Officer and progressing through successive appellate forums. Aggrieved taxpayers may first appeal to the Commissioner (Appeals) (CIT(A)), Joint Commissioner (Appeals) (JCIT(A)) or, where applicable, the Dispute Resolution Panel (DRP), followed by the Income Tax Appellate Tribunal (ITAT), which serves as the final fact-finding authority. Matters involving substantial questions of law may thereafter be pursued before the High Courts and, ultimately, the Supreme Court.



Tax litigation in India continues to pose a significant challenge to the country’s fiscal administration, with a substantial accumulation of arrears and a high volume of pending cases across all stages. As of financial year (FY) 2024–25, direct tax disputes pending at the first appellate level (CIT(A)/JCIT(A)) numbered approximately 5.39 lakh cases involving a disputed amount of approximately ₹16.75 lakh crore. At the ITAT level, there were 23,230 pending cases with disputed amounts of approximately ₹3.64 lakh crore. At higher judicial levels, 41,321 cases involving approximately ₹5.65 lakh crore were pending before High Courts, while the Supreme Court had 6,880 pending cases with disputed amounts of approximately ₹0.25 lakh crore³.

³ Standing Committee on Finance. Demands for Grants (2026–27). Thirtieth Report. 18th Lok Sabha. Ministry of Finance.

Overall, these trends point to persistent structural and procedural challenges within India’s tax dispute resolution framework. Delays in adjudication have significant implications for both revenue realisation and taxpayer certainty, undermining fiscal planning and predictability in tax administration.

Within this broader context, disputes arising from best judgment assessments under Section 144 of the Income-tax Act, 1961, form an important subset of tax litigation. Section 144 is invoked in defined situations of non-compliance, where the assessee does not file a return or respond to statutory notices, and the Assessing Officer (AO) is required to complete the assessment based on the material available, without the participation of the assessee within the prescribed limitation period. The absence of such participation can limit the scope for clarification or supplementation of facts at the assessment stage, potentially contributing to disputes that could have been resolved earlier.

An indicative review of publicly reported ITAT decisions (see Figure 2 below) suggests that disputes under Section 144 have remained a recurring feature of the tax dispute landscape and may have increased over time across the major ITAT benches.

Indicative Trend in Section 144 Litigation

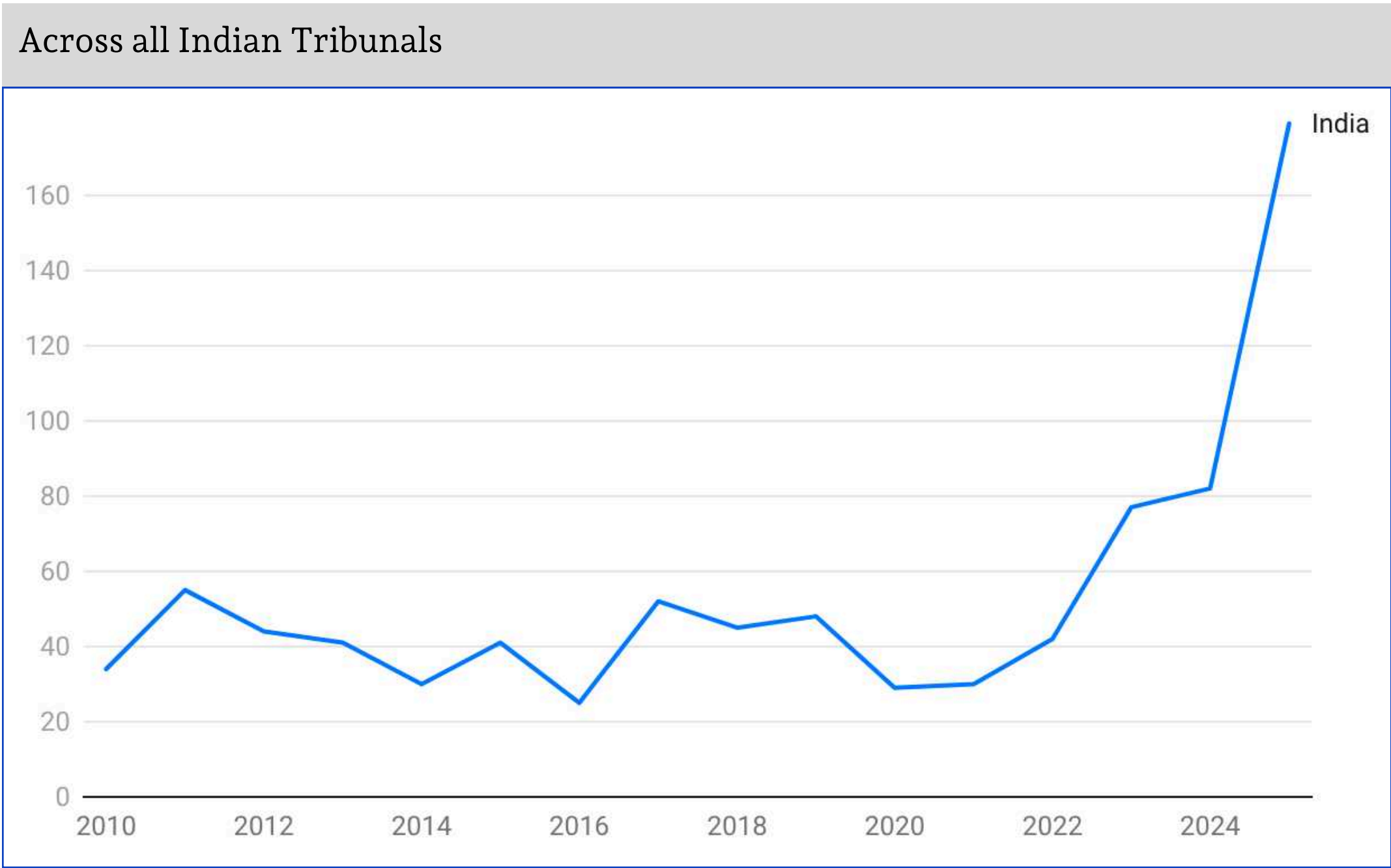


Figure 2: Indicative trend in Section 144 cases before selected ITAT Benches (2010–2025)

Methodology Note: The figure is based on search results from the Taxmann database using Section 144-related search terms across all Benches of the ITAT. The exercise is intended to provide an illustrative measure of litigation trends and does not represent the complete universe of Section 144 disputes.

² Corresponding provision: Section 287, Income-tax Act, 2025.

While the above exercise is limited by database coverage and search methodology, it nevertheless indicates that disputes arising under best judgment assessments continue to occupy a meaningful place within the appellate system.

The significance of Section 144 disputes is not merely a function of their volume. Based on the cases examined in this study, a significant proportion (approximately 61.3% of the sample) of Section 144 matters reaching the ITAT were remanded to the lower authorities for fresh adjudication, typically with directions to provide the assessee with another opportunity to be heard. While such remands may be consistent with the primacy of substantive justice over procedural requirements, they effectively restart the adjudicatory process, resulting in repeated proceedings, additional costs, prolonged uncertainty for both taxpayers and the department, and contributing to the overall volume and duration of litigation. This makes Section 144 disputes an important category of litigation from a policy and administrative perspective, particularly because many of the factors leading to remand appear capable of being addressed through targeted administrative and procedural reforms.

Accordingly, this study examines Section 144 cases decided by the ITAT to identify the statutory triggers, contributing factors, and procedural patterns associated with such disputes. It seeks to understand why non-participation occurs, and to identify targeted administrative and procedural reform that could reduce repeated proceedings and improve certainty in the tax assessment process.

Outline

This study is organised into four parts.



Part One lays out the legal and structural framework governing best judgment assessments under Section 144, including the statutory reasons for their invocation and the evolution of the provision.



Part Two outlines the methodology adopted, including the rationale for selecting ITAT decisions as the unit of analysis, the sampling approach, the analytical framework used to examine cases, and the scope and limitations of the study.



Part Three presents a summary of the quantitative findings, including the distribution of statutory reasons and the identification of contributing factors associated with Section 144 assessments, along with preliminary observations on patterns emerging from the dataset.



Part Four builds on the quantitative findings to identify recurring dispute patterns and offers thematic recommendations aimed at addressing the underlying causes of non-participation, improving the efficiency and effectiveness of the assessment process, improving the productivity of the appellate process, and reducing avoidable litigation within the system.

Part One: Legal and Structural Framework

Section 144 of the Income-tax Act, 1961 enables the Assessing Officer to complete an assessment to the “best of judgment” in defined situations of taxpayer non-compliance. The provision serves as a statutory mechanism to ensure that the assessment process is not stalled when the taxpayer fails to file a return or respond to notices issued during the proceedings.

Specifically, Section 144(1) applies in three circumstances. First, where the taxpayer fails to file a return of income as required under Section 139⁴. Second, where the taxpayer does not comply with all the terms of a notice issued under Section 142(1)⁵, which includes a failure to furnish accounts, documents, or information, or in cases where the taxpayer fails to comply with a direction for special audit under section 142(2A)⁶. Third, where the taxpayer, having filed a return, does not comply with all the terms of a notice issued under section 143(2)⁷ in a scrutiny proceeding. In each of these situations, the Assessing Officer is empowered to proceed based on the material available on record and assess the taxpayer’s total income.

The concept of best judgment assessment has a long legislative lineage. Its origins lie in Section 23(4) of the now-repealed Indian Income-tax Act, 1922, which empowered the Assessing Officer to proceed with assessment in cases of non-compliance. The provision was carried forward into the Income-tax Act, 1961 with a similar objective of ensuring the continuance of the assessment process and preventing non-compliance from impeding it. The provision operates in situations where information is incomplete or not forthcoming and therefore involves an element of estimation. At the same time, it is based on the premise that the assessment should involve a reasonable evaluation grounded in available material and surrounding circumstances.

Judicial principles have shaped how this provision is applied in practice. In *State of Kerala v. C.G. Velukutty*⁸, the Supreme Court, while adjudicating a matter under the Travancore-Cochin General Sales Tax Act, established a reasonable nexus test for “best judgment”, asserting that while an Assessing Officer may engage in a degree of guesswork, it should not be arbitrary, but should have a reasonable nexus to the available material and circumstances of each case. This principle ensures that administrative discretion does not devolve into naked punitive power, but involves a disciplined attempt to ascertain the true tax liability through rational inference, thus avoiding the pitfalls of mere surmise.

Furthermore, the procedural integrity of this assessment is safeguarded by the principles of natural justice and evidentiary standards. In *Dhakeswari Cotton Mills Ltd. v. CIT*⁹, the Supreme Court held that any information used by an officer to reach a judgment must be disclosed to the taxpayer, thus providing them a fair opportunity to

⁴ Corresponding provision: Section 263, Income-tax Act, 2025.

⁵ Corresponding provision: Section 268(1), Income-tax Act, 2025.

⁶ Corresponding provision: Section 268(5), Income-tax Act, 2025.

⁷ Corresponding provision: Section 270(8), Income-tax Act, 2025.

⁸ *State of Kerala v. C.G. Velukutty*, [1966] 60 ITR 239 (SC).

⁹ *Dhakeswari Cotton Mills Ltd. v. CIT*, [1954] 26 ITR 775 (SC).

rebut it. While this case dealt with regular scrutiny assessments under the erstwhile Income-tax Act, 1922, the following observations of the Court should equally apply to best judgment assessments:

“because it is equally clear that in making the assessment under sub-section (3) of Section 23 of the Act, the Income-tax Officer is not entitled to make a pure guess and make an assessment without reference to any evidence or any material at all. There must be something more than bare suspicion to support the assessment under section 23(3).”

Regarding the procedural sanctity of these assessments, courts have consistently held that the failure to serve a mandatory notice is not a mere technicality, but a jurisdictional defect that vitiates the entire assessment process. Under the statutory framework, including Section 144 of the Income-tax Act, 1961, the issuance of a show-cause notice is a condition precedent to the exercise of the Assessing Officer’s “best judgment” power. In instances where the assessee is purportedly untraceable, courts have emphasised that the taxing authority must demonstrate “due diligence” in attempting service, adhering to the “last known address” rule or substituted service protocols before proceeding *ex parte*.

The Income-tax Act, 2025 does not materially alter the underlying structure of best judgment assessments. While the new legislation reorganises and simplifies the provisions, the core principle of permitting assessment based on available material in cases of non-compliance remains intact. As a result, the operational and procedural issues observed in the application of Section 144 under the current framework will remain relevant under the new Act.

Section 144 thus performs a dual function within the assessment framework. It acts, on the one hand, as an enabling provision that ensures continuity of proceedings, and on the other, as a structured mechanism for completing assessments in cases of non-compliance, grounded in available material and operating within principles of reasonableness, evidentiary sufficiency, and procedural fairness.

Section 144 now operates within the faceless assessment framework under Section 144B¹⁰, which provides that most assessments, including those under Section 144, shall be made in a faceless manner. Assessments are conducted through an electronic system involving automated case allocation, multiple-unit review, and communication through the income tax portal. Under this framework, Section 144 assessments are completed without any physical interface, with notices, responses, and orders exchanged digitally. While the shift to a faceless system reduces discretion and streamlines procedure, it also places greater reliance on the effective functioning of electronic communication and access to digital infrastructure.

¹⁰ Corresponding provision: Section 273, Income-tax Act, 2025.

Part Two: Methodology, Scope, and Limitations

The Income Tax Appellate Tribunal (ITAT) is the primary unit of analysis of this study. A dispute arising from a Section 144 assessment typically progresses through a structured chain beginning with assessment by the Assessing Officer, followed by an appeal before the CIT(A) or DRP (as applicable), and thereafter a second appeal before the ITAT. While the CIT(A) and DRP function as appellate authorities within the tax administration, the ITAT operates as an independent appellate body and serves as the final fact-finding authority under the Ministry of Law and Justice.

The selection of the ITAT as the unit of analysis is driven by both practical and analytical considerations. From a practical standpoint, ITAT orders are publicly accessible and systematically reported, whereas orders of the CIT(A) or DRP are not available in the public domain. From an analytical perspective, cases reaching the ITAT have already passed through both the assessment stage and the first appellate stage and therefore provide insight into issues that have persisted across two different levels of the tax dispute resolution process. Accordingly, ITAT decisions offer a structured and observable dataset for examining recurring patterns in the application of Section 144 and identifying avoidable disputes.

The study reviewed 181 decisions across the Mumbai (45), Delhi (43), Bangalore (44) and Kolkata (49) Benches of the ITAT involving Section 144 assessments, in which the ITAT order was pronounced between 2021 and 2025. Cases were sourced from publicly accessible legal databases, including ITATOnline, TaxMann, Manupatra, IndiaKanoon, and CaseMine.

The study adopted a stratified approach based on the year of pronouncement by selecting 10 cases per year for each ITAT, with an intended sample of 50 cases per ITAT over the five-year period. However, selection was constrained by the availability of accessible and relevant decisions, resulting in a final sample of 181 cases. Within these constraints, cases were selected to ensure reasonable temporal distribution across the study period and to capture variation in dispute patterns, while acknowledging that the sample is not strictly random.

For analytical purposes, each case was examined across two dimensions. First, cases were categorised based on the statutory reasons for the invocation of Section 144 (primary factors), as set out in the provision (such as non-filing of return or non-compliance with statutory notices). Second, cases were coded for contributing factors that explained the underlying reason why Section 144 assessments occurred.

Scope and Limitations

This study is limited to a qualitative analysis of 181 decisions from the Bangalore, Mumbai, Delhi, and Kolkata Benches of the ITAT between 2021 and 2025. While the sampling approach is designed to provide temporal representation and reduce bias, the findings should be regarded as indicative and may not be fully representative of all Section 144 disputes across jurisdictions. The study relies on publicly available ITAT orders, which reflect only those matters that have progressed to the second appellate stage; disputes resolved at the assessment stage or before the CIT(A) are not captured. Additionally, the analysis is based on the facts and reasoning recorded in the ITAT orders, which may not always fully reflect the complete administrative record or taxpayer circumstances. Accordingly, the findings should be understood as illustrating recurring patterns within the examined dataset.

The study period also overlaps substantially with the COVID-19 pandemic, the transition toward faceless assessment and appellate systems, and two Direct Tax Vivad Se Vishwas Schemes, which gave taxpayers the option to settle pending litigation by paying reduced amounts and obtaining immunity from penalties and prosecution. These circumstances may have affected taxpayer participation, proceedings, compliance timelines, and the nature and disposal of matters reaching appellate forums, including the CIT(A) and the ITAT, during the relevant years.

Further, during most of the study period, the CIT(A) lacked the power to set aside assessment orders. This may have influenced the manner in which certain appeals were dismissed and disposed of at the CIT(A) level without any effective findings on facts. In such situations, disputes may have ultimately required intervention by the ITAT to facilitate fresh adjudication. The power to set aside Section 144 assessments by the CIT(A) was subsequently restored with effect from 1 October 2024¹¹.

Finally, the cases reviewed in the study were not limited exclusively to faceless assessments. The dataset included matters arising from both faceless assessment proceedings and from assessments conducted by jurisdictional Assessing Officers. Given the timelines involved in appellate disposal, ITAT orders pronounced during the study period may also reflect assessments completed before the full operationalisation of the faceless assessment framework. Accordingly, observations regarding procedure, participation, and communication-related issues should be understood in the context of both faceless and conventional assessment processes.

¹¹ See Circular No. 14 of 2001, explaining the amendment to Section 251(1)(a) by the Finance Act, 2001 removing the power of the CIT(A) to set aside assessments and refer matters back to the Assessing Officer for fresh assessment. The power to set aside Section 144 assessments was subsequently restored with effect from 1 October 2024 by the Finance (No. 2) Act, 2024.

Part Three:

Summary of Quantitative Findings

A. Reasons for Initiation of a Section 144 Assessment as per the Act

Every Section 144 order begins with statutory reasons for initiation of best judgment assessments. The distribution of the statutory reasons in the study sample of 181 orders is provided below:

Reasons for Initiation of a Section 144 Assessment	Frequency	Percentage
Non-compliance with Statutory Notices	130	71.8%
No Return on Record	28	15.5%
Mistaken or invalid invocation of Section 144	29	16.02%

Table 1

Note: The categories in this table are not mutually exclusive, as a single case may involve more than one statutory reason for initiation of a Section 144 assessment. Percentages therefore do not add up to 100%.

A significant proportion of cases in the sample triggered initiation of a best judgment assessment due to non-compliance. This includes situations where the assessee failed to comply with a notice under Section 142(1)¹² calling for the furnishing of a return, information, or production of accounts; failed to comply with a special audit direction under Section 142(2A)¹³; or filed a return but did not respond to a Section 143(2)¹⁴ scrutiny notice. This indicates that litigation was largely generated after entry into the taxation process.

¹² Corresponding provision: Section 268(1), Income-tax Act, 2025.

¹³ Corresponding provision: Section 268(5), Income-tax Act, 2025.

¹⁴ Corresponding provision: Section 270(8), Income-tax Act, 2025.

B. Contributing Factors

Beyond the primary statutory reasons, each case was coded for contributing factors that explain why a Section 144 assessment was conducted, that is, without the participation of the assessee. The distribution across cases is as follows:

Contributing Factor	Frequency	Percentage
Avoidance / non-response by the assessee	65	35.9%
Ineffective service / wrong communication endpoint by the Tax Authorities	35	19.3%
Health and medical vulnerability issues for the assessee	20	11%
Digital access barrier (for the assessee)	18	9.9%
Unreasonably short time / ineffective opportunity granted by the Assessing Officer or the CIT(A) / DRP to the assessee	13	7.2%
Failure of representation by a tax agent for the assessee	10	5.5%
Income-tax portal or system malfunction	5	2.8%
Documentation / record-keeping incapacity of the assessee	5	2.8%

Table 2

Note: This table is based only on cases where the ITAT order records facts or observations indicating the factor contributing to the occurrence of a Section 144 assessment without the participation of the assessee. Some cases did not contain a specific finding on this aspect. The categories in this table are also not mutually exclusive, as a single case may involve more than one contributing factor. Percentages therefore do not add up to 100%.

C. Issues in First Appellate Adjudication and Gaps in Fact-finding and Estimation at the Assessment Stage

Section 250 of the Act empowers the CIT(A) to conduct an inquiry and requires the Authority to provide the assessee with an effective opportunity to be heard and to pass a reasoned order stating the points for determination, the decision thereon, and the reasons for the decision. Judicial decisions have also emphasised that appeals should be decided on their merits based on the CIT(A)’s own reasons and findings¹⁵ and by way of a speaking order in accordance with law¹⁶. However, the study identified that in 102 cases, representing 56.4% of the sample, disputes progressed to the ITAT without adequate factual adjudication at the first appellate stage. These cases highlight limitations in the functioning of the first appellate process and suggest that more effective adjudication at this stage could have reduced the need for further litigation before the Tribunal.

Further, in 59 cases, or 32.4% of the sample cases, the Tribunal’s observations point to either gaps in fact-finding during the assessment stage¹⁷ or issues in income estimation¹⁸ during the assessment stage.

Category	Frequency	Percentage
Issues in CIT(A) level adjudication	102	56.4%
Gaps in fact-finding / issues in estimation at assessment stage	59	32.6%

Table 3

Note: The categories in this table represent separate observations arising from the analysis and are therefore not intended to add up to 100%.

¹⁵ Ajji Basha v. CIT, High Court of Madras, W.P. No. 26091 of 2019.

¹⁶ Marvel Industries Ltd. v. DCIT, ITA No. 779/Mum/2022.

¹⁷ These include instances where there was a) non-consideration of filed material, b) no verification of material evidence, c) mechanical rejection of explanation, d) failure to use available information sources before estimating, or e) no reasoned inquiry despite complex factual claim.

¹⁸ These include instances where there was a) insufficient reasoning for estimate choice, b) an arbitrary profit rate applied, c) a punitive or high-pitched estimation, or d) no consideration of past-history or comparables.

D. Outcomes of the ITAT Appeal

The study also examined the manner in which Section 144 disputes were ultimately disposed of by the ITAT. The distribution across cases was as follows:

Category	Frequency	Percentage
Remand to Assessing Officer (without merits adjudication by the ITAT)	78	43.1%
Fully in favour of assessee on merits	52	28.7%
Remand to CIT(A) (without merits adjudication by the ITAT)	25	13.8%
Assessment quashed as void ab initio / bad in law*	21	11.6%
Fully in favour of revenue on merits	11	6.1%
Partial relief to assessee (with remand)	8	4.4%
Partial relief to assessee (without remand)	7	3.9%

Table 4

Note: This table is based only on cases where the ITAT order records facts or observations indicating the factor contributing to the occurrence of a Section 144 assessment without the participation of the assessee. Some cases did not contain a specific finding on this aspect. The categories in this table are also not mutually exclusive, as a single case may involve more than one contributing factor. Percentages therefore do not add up to 100%.

E. Timelines for Disposal of Section 144 Disputes

The study also examined the time taken for Section 144 disputes to progress through the appellate process (for the sample of 181 cases). Based on the subset of cases for which assessment order dates, CIT(A) order dates, and ITAT order dates were available, the mean and median time taken between the key stages of the dispute resolution process were as follows:

Stage	Mean (Years)	Median (Years)	No. of Cases Analysed
Assessment Order to CIT(A) Order	3.3	3.0	81
CIT(A) Order to ITAT Order	1.8	0.9	148
Assessment Order to ITAT Order	5.2	4.9	102

Table 5

Note: While ITAT order dates were available for the entire sample of 181 cases, assessment order dates were available for approximately 55.4% of the sample, and CIT(A) order dates were available for 80.4% of the sample. The figures represent means and medians based on the subset of cases for which complete date information was available and should therefore be treated as indicative rather than representative of the entire sample.

F. Assessment Year Distribution

The study also examined the assessment years represented in the sample. Figure 3 shows the distribution of cases across assessment years. A notable concentration of disputes relates to Assessment Year 2017–18, which corresponds to the period immediately following the demonetisation announcement of November 2016. Disputes relating to Assessment Year 2017–18 accounted for 49 cases (26.9% of the sample) and represent the single largest assessment year in the dataset.

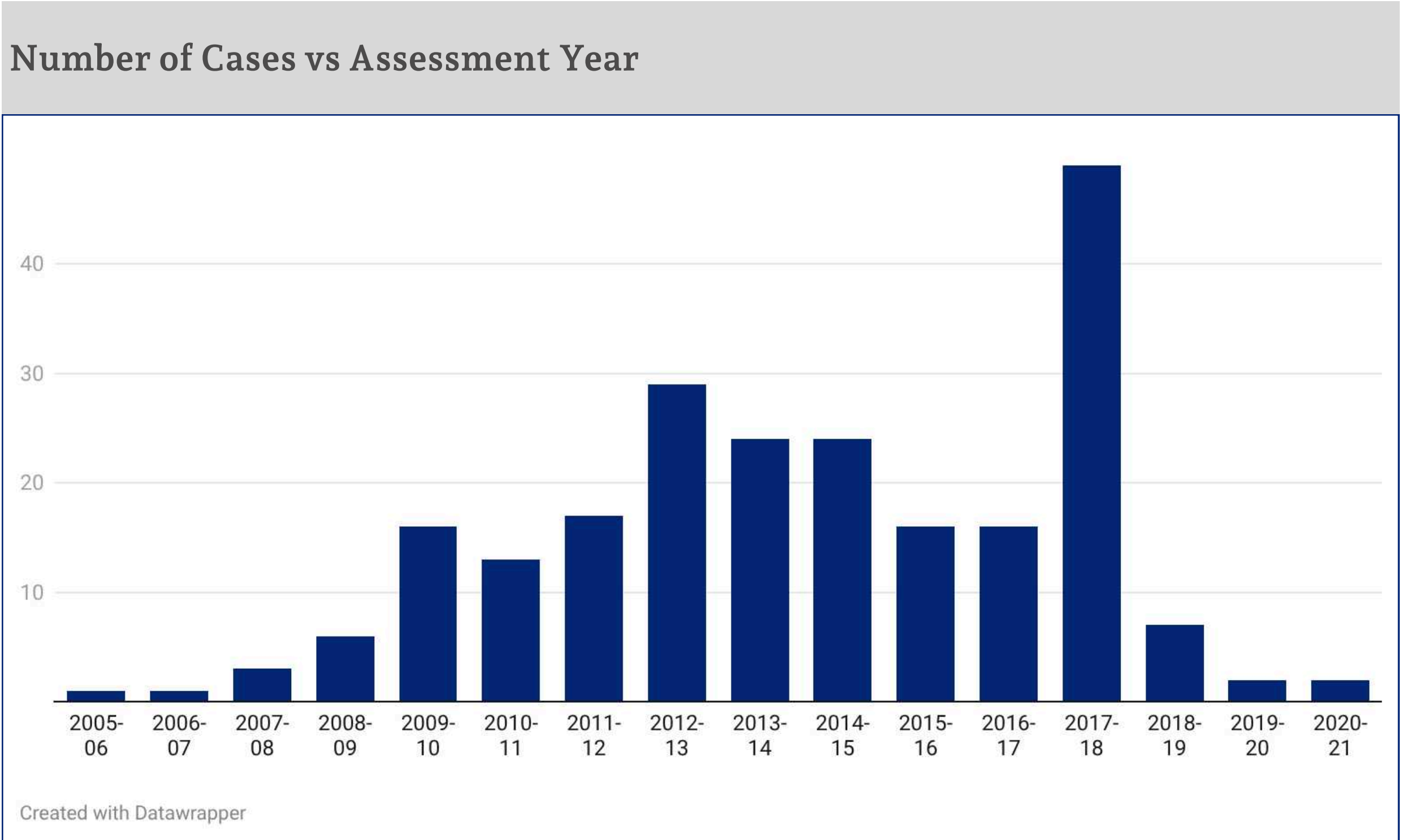


Figure 3: Distribution of cases in the sample by Assessment Year.

Methodology Note: The figure represents the assessment years involved in the 181 ITAT decisions reviewed as part of the study.

G. Interpretation of the Findings

The distribution of contributing factors (Table 2) points to a mix of behavioural and systemic drivers. Contrary to common perception, avoidance or non-response by assessee constituted the single largest category (35.9%). However, a significant share of cases was attributable to factors associated with the administrative process. Ineffective service of notices and incorrect communication endpoints constituted the largest category (19.3%), indicating that there was a notice delivery failure in nearly one in five cases. Portal malfunctions accounted for 2.8% of the sample, while instances where insufficient or ineffective opportunity was provided accounted for 7.2% of the sample. Taken together, these factors represent a substantial proportion of cases (29.3%) and indicate areas where targeted administrative improvements could reduce disputes arising from best judgment assessments.

The findings also highlight the role of vulnerabilities and capacity constraints, including health-related issues (11%), representation failures (5.5%), and documentation limitations (2.8%), as factors contributing to non-participation by the assessee in a non-trivial number of cases. These suggest that not all instances of non-compliance are deliberate, and procedural and legal safeguards may need to account for such circumstances.

Further, in 56.4% of the cases analysed, disputes progressed to the ITAT without meaningful factual adjudication at the first appellate stage, highlighting limitations in the effectiveness of the first appellate process (Table 3). In addition, gaps in fact-finding and issues in estimation at the assessment stage were observed in 32.6% of cases, pointing to deficiencies in the quality and completeness of assessment at the initial stage.

The distribution of contributing factors (Table 2) points to a mix of behavioural and systemic drivers. Contrary to common perception, avoidance or non-response by assessee constituted the single largest category (35.9%). However, a significant share of cases was attributable to factors associated with the administrative process. Ineffective service of notices and incorrect communication endpoints constituted the largest category (19.3%), indicating that there was a notice delivery failure in nearly one in five cases. Portal malfunctions accounted for 2.8% of the sample, while instances where insufficient or ineffective opportunity was provided accounted for 7.2% of the sample. Taken together, these factors represent a substantial proportion of cases (29.3%) and indicate areas where targeted administrative improvements could reduce disputes arising from best judgment assessments.

The findings also highlight the role of vulnerabilities and capacity constraints, including health-related issues (11%), representation failures (5.5%), and documentation limitations (2.8%), as factors contributing to non-participation by the assessee in a non-trivial number of cases. These suggest that not all instances of non-compliance are deliberate, and procedural and legal safeguards may need to account for such circumstances.

Further, in 56.4% of the cases analysed, disputes progressed to the ITAT without meaningful factual adjudication at the first appellate stage, highlighting limitations in the effectiveness of the first appellate process (Table 3). In

addition, gaps in fact-finding and issues in estimation at the assessment stage were observed in 32.6% of cases, pointing to deficiencies in the quality and completeness of assessment at the initial stage.

The manner in which appeals were ultimately disposed of by the ITAT is also revealing. A substantial proportion of cases (61.3% of the sample, or 111 cases out of 181) resulted in remand to lower authorities for fresh adjudication¹⁹ (Table 4). This suggests that a significant proportion of disputes reaching the Tribunal involved procedural deficiencies or unresolved factual issues requiring reconsideration at earlier stages of the process. Rather than bringing disputes to a final resolution, the appellate process frequently resulted in repeated proceedings, emphasising the importance of strengthening both participation and decision-making at earlier stages.

At the same time, the outcomes indicate that relatively few disputes were ultimately decided fully in favour of the department. Only 11 cases (6.1% of the sample) resulted in the Tribunal fully upholding the department's position. In contrast, 52 cases (28.7%) were decided fully in favour of the assessee on merits, while a further 8 cases (4.4%) resulted in partial relief to the assessee without remand, and 7 cases (3.9%) resulted in partial relief together with remand on certain issues. Moreover, 21 cases (11.6% of the sample) resulted in the initial assessment being quashed as void ab initio or otherwise bad in law, due to jurisdictional or procedural deficiencies in the assessment process. These outcomes suggest that when the Tribunal examined disputes on their merits, assesseees obtained some measure of relief in most cases.

Taken together, these outcomes indicate that only a small proportion of lower orders survived scrutiny before the Tribunal without modification or intervention. The findings thus point not only to issues of taxpayer participation but also to limitations in fact-finding, adjudication, and procedural compliance at earlier stages of the dispute resolution process.

The disposal timeline analysis also indicates that Section 144 disputes often remain within the appellate system for a considerable period before being disposed of by the ITAT, with the greatest delay occurring at the CIT(A) level. Based on the cases for which relevant date information was available, a typical Section 144 dispute took approximately 4.9 years to progress from the assessment stage to disposal by the ITAT (median duration), with an average duration of approximately 5.2 years. Where matters are subsequently remanded for fresh assessment or fresh appellate adjudication, the dispute resolution cycle effectively restarts, resulting in additional delay, uncertainty, and administrative costs for both taxpayers and the department.

The assessment year distribution reveals a notable concentration of disputes relating to Assessment Year 2017–18, which accounts for approximately 27% of the sample and represents the largest single assessment year in the dataset. While this study does not seek to draw causal conclusions, this concentration may reflect the heightened

¹⁹ Approximately 56.9% of the sample was remanded without adjudication on merits, either to the Assessing Officer for fresh assessment (43.1%) or to the CIT(A) for fresh appellate adjudication (13.8%). Approximately 4.4% of the sample was remanded by the ITAT after allowing for partial relief. Thus, the total proportion of cases remanded is approximately 61.3% of the sample.

scrutiny and verification exercises associated with the demonetisation period and suggests that significant policy initiatives may influence tax litigation patterns, including the volume and nature of disputes.

The study also observed that Section 144 disputes frequently arose in the context of reassessment proceedings initiated under Section 148²⁰. Given that reassessment proceedings often relate to earlier assessment years, this context may help explain some of the patterns of non-response and communication-related issues observed in the dataset.

²⁰ Corresponding provision: Section 280 of the Income-tax Act, 2025.

Part Four:

Common Dispute Patterns and Recommendations

The analysis reveals a set of recurring patterns across the cases examined, particularly relating to the circumstances in which Section 144 assessments are initiated, the factors contributing to non-participation by assessees at the assessment and first appellate stages, and the nature of issues that persist into litigation. As noted earlier, a significant proportion of matters, representing 61.3% of the sample, were remanded by the ITAT to the lower authorities for fresh determination, often with directions to provide the assessee with an opportunity to be heard.

This section of the report identifies common dispute patterns that contribute not only to such outcomes but to prolonged and persistent litigation. It then offers corresponding recommendations with three objectives:

- to address the underlying factors contributing to non-participation, with a view to reducing repeated proceedings and overall litigation burden;
- to improve the efficiency and effectiveness of the appellate process; and
- to minimise avoidable gaps in fact-finding and possible errors in income estimation at the assessment stage.

The recommendations are organised thematically based on the nature of the challenges observed:

- A. Cases relating to adequacy of opportunity and principles of natural justice
- B. Digital barriers, including portal- and system-related issues
- C. Effectiveness of notice delivery mechanisms
- D. Issues arising at the appellate stage

A. Cases relating to Denial of Natural Justice and Inadequacy of Opportunity

The principle of providing the assessee an opportunity to make their case is a foundational requirement of any assessment proceeding. However, the case analysis reveals a violation of this principle in Section 144 proceedings by Tax Authorities (both at the AO and CIT(A) stages) in 7.2% of the cases studied.

Some Examples

- Show-cause notices with a response deadline of just one day²¹.
- Assessment orders were passed on the same day the response deadline expired, without reviewing submissions sent by the assessee via email²².
- The AO did not take into account submissions that were uploaded to the portal before the assessment order was passed, despite their having been submitted within the prescribed time²³.
- The AO ignored evidence submitted via email when the portal was inaccessible, despite email being the only available channel²⁴.

Recommendations

1. Introduce a “genuine hardship” protocol for serious illness, death, comparable incapacity and portal or technical issues:

One option to consider is the introduction of a formal framework under the provisions of the Income-tax Act, 2025 to enable timeline extensions during assessment proceedings in cases involving genuine hardship. Such situations could include serious illness, medical incapacity, death, bereavement, portal-related malfunctions, or similar circumstances beyond the taxpayer’s control. In appropriate and verified cases, such hardship should ordinarily warrant an extension of applicable timelines during the course of proceedings.

Comparable administrative frameworks already exist within the Indian tax system. For instance, the CBDT, through Circular No. 11/2024 dated 1 October 2024, has issued guidelines on the condonation of delay in filing returns claiming refunds or the carrying forward of losses in genuine cases, including the allocation of powers across authorities based on monetary thresholds. A similar framework may be considered in the context of assessment proceedings to address situations involving genuine hardship.

The hardship protocol is intended to operate as a pre-emptive safeguard during the assessment proceedings, with the objective of preventing ex parte assessments from being passed in genuine cases at the outset itself.

International Best Practices

In the United States, the limitation period for claiming a credit or refund is suspended where an individual is “financially disabled,” such that they are unable to manage their financial affairs due to a medically determinable

²¹ *Farida Aboushair v. ITO*, ITA No. 987/Bang/2025.

²² *B.S. Ramachandra v. ACIT*, ITA No. 897/Bang/2023.

²³ *Irudhayaraj Maria Richard v. ITO*, ITA Nos. 312 & 313/Bang/2021.

²⁴ *B.S. Ramachandra v. ACIT*, ITA No. 897/Bang/2023.

physical or mental impairment expected to result in death or to last for a continuous period of 12 months or more²⁵. In Canada, the Income-tax Act empowers the tax authority to grant relief from interest and penalties, subject to a 10-year rolling limitation period²⁶. Administrative guidance issued by the Canada Revenue Agency provides for the circumstances under which such relief can be granted. These include serious illness, accidents, emotional or mental distress, inability to pay, or financial hardship and other extraordinary circumstances²⁷. In Germany, the Fiscal Code permits restitutio in integrum or reinstatement to the previous position, where a taxpayer is prevented, through no fault of their own, from complying with a statutory time limit. The provision allows the delayed action to be treated as timely, subject to the submission of an application within the prescribed time limits²⁸.

In Australia, internal practice instructions to the tax administration provide for lodgment deferrals – that is, timeline extensions to file returns or submit information – in exceptional or unforeseen circumstances, including system issues, serious illness, limited understanding of tax obligations, natural disasters, experiences of vulnerability and impeded access to records²⁹. In the United Kingdom, the penalty framework recognises that a penalty should not apply where a taxpayer has a “reasonable excuse” for non-compliance, a standard that, as set out in His Majesty’s Revenue and Customs (HMRC) guidance, is determined based on the facts and circumstances of each case³⁰. These approaches reflect a common principle: where non-compliance arises from circumstances beyond the taxpayer’s control, the framework should preserve the taxpayer’s procedural position and avoid disproportionate adverse consequences.

2. Mandate a “grace and cure” window for evidentiary submission before the finalisation of a section 144 assessment:

The law may consider providing for a new mechanism which, notwithstanding the expiry of the applicable limitation period, creates a statutory 40-day “grace and cure” window immediately following the upload of a Section 144 order to the department portal. During this window, the order may be treated as “provisional for cure purposes”. If the taxpayer uploads documents that directly address the reasons recorded for proceeding ex parte, the AO may be empowered, within a narrowly defined and time-bound framework, to reconsider the matter and pass a corrected order on merits without forcing the taxpayer to immediately enter into appellate litigation.

This recommendation provides a limited opportunity to the taxpayer immediately after a Section 144 order is uploaded to the department portal and before the matter progresses into the appellate process. In this context we would like to draw reference to the erstwhile Section 146 of the Income-tax Act, 1961, where orders were

²⁵ 26 U.S. Code § 6511 - Limitations on credit or refund.

²⁶ Income Tax Act (Canada), s. 220(3.1)

²⁷ Canada Revenue Agency, Taxpayer Relief Provisions, Circular IC07-1R1, <https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/ic07-1/taxpayer-relief-provisions-1r1.html#s25>

²⁸ German Fiscal Code (Abgabenordnung), §110.

²⁹ Australian Taxation Office, Practice Statement PS LA 2011/15: Lodgment Obligations, Due Dates and Deferrals.

³⁰ Finance Act 2009, Sch 55 read with HM Revenue & Customs, Compliance Handbook (“Reasonable Excuse”).

allowed to be cancelled in specific situations and fresh evidence was allowed to be taken on record³¹.

3. Section 144 orders could be treated as rectifiable orders with a specific provision to enable the introduction of fresh evidence

Best judgment assessments are a consequence of non-participation by the assessee during the course of assessment, as issues remain unexplained and unsubstantiated at that stage. Following a best judgment assessment, and after the “grace and cure” window as mentioned above has expired, an assessee could be allowed to submit additional evidence through an application before the Assessing Officer within a specified time limit. Such applications could be adjudicated by the Assessing Officer within a specified period (for example, 90 days), after giving the assessee an opportunity to be heard. This would create a narrow administrative remedy for obvious defects, avoid unnecessary recourse to the full appellate chain, and consequently reduce pendency of appeals before the CIT(A).

Other Aspects

During the course of the analysis, we also observed significant fact-finding and estimation errors that occurred at the assessment stage because of the lack of assessee participation (around 32.4% of cases). We believe the above set of measures relating to giving assessee the opportunity to be heard will minimise these errors.

³¹ See, erstwhile Section 146 of the Income Tax Act, 1961, available at <https://www.incometaxindia.gov.in/w/section-146-27>

B. Digital Barriers and Portal- and System-Related Malfunctions

The transition to faceless assessment and mandatory e-proceedings has created significant accessibility challenges for vulnerable categories of taxpayers. Elderly individuals, rural taxpayers, and people with low or no digital literacy are often unable to navigate digital systems, yet this inability is treated as non-compliance. The ITAT has repeatedly condoned delays and remanded matters purely because the taxpayer could not use the digital interface. The study found that this occurred in 9.9% of the cases studied.

Beyond the digital divide, the e-proceedings portal has itself been a source of disputes because of its own technical failures. In 2.8% of the cases analysed, disputes arose from failures attributable to the department's technological infrastructure. The ITAT has had to intervene to vacate orders that were passed despite portal-induced denial of opportunity.

Some Examples

- Senior citizens and illiterate or semi-literate taxpayers were unable to navigate e-proceedings portals, leading to deemed non-compliance³².
- An illiterate taxpayer is unable to complete e-verification, rendering a valid return technically invalid and triggering ex parte proceedings³³.
- The e-proceedings portal is locked or inaccessible on the date of compliance for the taxpayer, making timely compliance physically impossible³⁴.
- Notices by email were sent to an incorrect email ID³⁵.
- No email was sent despite notices having been uploaded to the portal dashboard³⁶.

Recommendations

1. Codification of a “digitally excluded” category in the Income-tax Act or Rules, with a clear legal entitlement to alternative modes of compliance

One option to consider is creating a formal category of “digitally excluded” taxpayers under the law, allowing for alternate modes of compliance for such persons. This could include access to non-digital channels of compliance such as paper filing and physical hearings, and extended timelines in suitable cases. A limited version of such a mechanism already exists within the current system, which permits super senior citizens aged 80 years or above to submit ITR-1 or ITR-4 in offline or paper mode. A similar framework could be extended to other taxpayers who are unable to navigate digital compliance. As a safeguard, such provisions need not apply in cases where taxpayers are otherwise able to meet digital compliance requirements under systems such as the Goods and Services Tax regime or comparable digital platforms. In addition, the department may consider establishing

³² *Satish Panduranga v. ITO*, ITA No.237/Bang/2023.

³³ *Anitha Fernandes v. ITO*, ITA No. 252/Bang/2023.

³⁴ *B.S. Ramachandra v. ACIT*, ITA No. 897/Bang/2023.

³⁵ *Venkataraju Chandra Shekar v. ITO*, ITA No. 1351/Bang/2024.

³⁶ *D S Srinivasa Setty & Co. v. ITO*, ITA No. 827/Bang/2024.

dedicated support mechanisms and assistance teams and/or empowering Aayakar Seva Kendras to provide hands-on compliance and digital assistance in appropriate cases, rather than treating digital inaccessibility or technological incapacity as taxpayer default.

International Best Practices

In the United Kingdom, digital requirements do not apply where a taxpayer is “digitally excluded” within the meaning of the Income-tax (Digital Requirements) Regulations 2021³⁷, together with guidance setting out the circumstances in which such digital exclusion is to be recognised³⁸.

2. Establishment of a national “Tax Mitra” programme for direct taxes for digitally challenged taxpayers

The Income Tax Department could establish a national programme as an assisted-compliance function within its existing taxpayer assistance, grievance redressal, and facilitation framework. The programme should deploy government-appointed and trained assistance personnel to provide taxpayers with limited digital capacity with timely human support in navigating e-proceedings, completing procedural requirements, accessing online compliance systems, and responding effectively to departmental communications. This would create an institutional support mechanism for such taxpayers.

The Tax Return Preparer (TRP) Scheme could also be revamped, under which trained intermediaries would assist specified categories of taxpayers with the preparation and filing of tax returns. While the TRP scheme represents an early attempt at assisted tax compliance, it does not appear to have developed into a widely used support system.

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International Best Practices

In the United States, the Internal Revenue Service (IRS) administers the Volunteer Income Tax Assistance (VITA) programme, which provides free tax return preparation support to low-income and vulnerable taxpayers, including persons with disabilities and those with limited English proficiency. The programme who are required to complete certification in tax law. The IRS also requires a quality review of each return before filing. Through this model, VITA facilitates access to the tax system for taxpayers who may encounter barriers in complying with filing requirements³⁹. Australia similarly provides support through its Tax Help programme, which assists eligible low-income individuals in lodging their tax returns online for free, and through the

³⁷ Regulation 20, Income Tax (Digital Requirements) Regulations 2021

³⁸ Clause 14 of Schedule 1A, Taxes Management Act 1970.

³⁹ Internal Revenue Service, Free Tax Return Preparation for Qualifying Taxpayers (Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) Programs).

government-funded National Tax Clinic Programme⁴⁰, which offers advice and assistance to vulnerable taxpayers in navigating their tax obligations.

Closer home, the Rajasthan Tax Mitra initiative illustrates how such a model can be adopted in the Indian context. The scheme envisages the engagement of commerce graduates and Chartered Accountants to assist taxpayers with GST and VAT processes for a nominal, regulated fee (reported to be between ₹50 and ₹400). The scheme thus demonstrates how trained intermediaries can assist taxpayers in meeting GST/VAT compliance requirements.

3. Improvement of the grievance redressal system on portal-related issues

Taxpayers who raise genuine concerns on portal-related issues through the grievance redressal system should receive prompt assistance, and such issues should be resolved expeditiously at the backend. The quality of grievance redressal should also be monitored through a taxpayer feedback mechanism. In the event the taxpayer is dissatisfied with the measures taken through the redressal system, the grievance ticket should be opened, and further attempts should be made to resolve the issue⁴¹.

4. Building awareness and capacity-building measures

Tax authorities may consider implementing structured awareness and capacity-building initiatives to improve the taxpayer's experience with the faceless assessment system and e-proceedings. These may include periodic communication through SMS, verified WhatsApp messages, and email alerts to notify taxpayers of key actions, deadlines, and pending notices.

Targeted outreach and training initiatives may be particularly useful for taxpayers with limited digital familiarity. These could include simple user guides, short instructional videos, and help desk support explaining how to access the income tax portal, review notices, and submit responses. Such measures could help reduce instances of non-participation arising from digital access barriers or lack of awareness.

⁴⁰ Australian Taxation Office, *Tax Help Program*; Australian Taxation Office, *National Tax Clinic Program*.

⁴¹ Government of Rajasthan, *Budget Speech / Press Note 2023–24*; see also Institute of Company Secretaries of India, *GST Newsletter (May 2023)*.

C. Ineffective Delivery of Notices

Across the cases analysed, failures in notice service and communication contributed to avoidable litigation in 19.3% of the sample. When notices are sent to incorrect or incomplete addresses, outdated email accounts, or inaccessible portals, meaningful participation becomes difficult or impossible. In such cases, taxpayers were genuinely unaware of the proceedings against them.

Some Examples

- Notice by email was sent to an incorrect email ID⁴².
- Notice sent to the incorrect physical address despite having the updated address available in the latest income-tax return, PAN database and details furnished by the assessee's bank⁴³.
- The portal routing the notice to a legacy or incorrect email ID recorded in the master database, even when the taxpayer had filed returns using a different, current email address⁴⁴.
- Notice to a Non-Resident Indian sent to an old Indian address, without verifying current overseas contact details⁴⁵.

Recommendations

1. Periodic verification of contact details on record

The department may consider introducing specific mechanisms for periodic verification and updating of registered email addresses, mobile numbers, and communication details when taxpayers file returns, respond to notices, access the income-tax portal, or otherwise engage with the tax system. Comparable verification prompts at the point of interaction with users are common in digital banking systems and other online service platforms, such as online marketplaces, to ensure that customer contact details remain current and functional.

In cases where notices repeatedly remain unserved or communications fail, alternative methods of service should be triggered to ensure that notice is effectively brought to the taxpayer's attention. This would help reduce cases where notices are missed because of outdated contact details, communication failures, or limited accessibility of the assessee.

International Best Practices

Comparative international practice also reflects increasing reliance on digital communication systems together with safeguards relating to delivery and taxpayer notification. In the United Kingdom, HMRC relies extensively on secure digital communication for taxpayers who have opted for paperless delivery. Under HMRC guidance, digital notices are treated as delivered once the notice has been uploaded to the taxpayer's secure mailbox, an

⁴² *Sri. Govindaraju Sanjeevaiah v. ITO*, ITA No.360/Bang/2024.

⁴³ *Late Pankaj Shantilal Shah v. ITO*, ITA No.3789/MUM/2019.

⁴⁴ *Venkataraju Chandra Shekar v. ITO*, ITA No. 1351/Bang/2024

⁴⁵ *Venkataraju Chandra Shekar v. ITO*, ITA No. 1351/Bang/2024

email notification has been issued, and the email has not bounced, irrespective of whether the taxpayer has actually read the communication. HMRC guidance also provides for fallback physical communication where digital delivery fails on two occasions. In contrast, the United States Internal Revenue Service relies primarily on physical letters and notices for formal taxpayer communication, although recent reforms have begun moving the system towards taxpayer online accounts.

2. Appointing a tax representative for non-residents

All non-resident assesseees filing Indian tax returns should mandatorily be required to designate a resident contact person and/or a tax representative, in addition to the primary contact details of the assessee.

Communication relating to notices and proceedings can then be sent simultaneously to both the taxpayer and the resident representatives. This would help ensure effective communication, particularly in cases involving unavailability of foreign contact details⁴⁶, time zone differences, and limited accessibility.

3. Creating awareness amongst taxpayers and strengthening communication systems

While every assessee currently receives an automated email and SMS whenever a notice is issued, the communication framework can be further strengthened to reduce instances of non-response. This could include:

- Sending communications through a verified WhatsApp account, in addition to email and SMS, with a copy of the notice included.
- Clearly highlighting response timelines as part of the messages, together with periodic reminders, particularly in the case of show-cause notices.
- Introducing targeted follow-up measures, such as one-on-one calls to assesseees when no response has been received within a specified period (a similar system already exists for contacting assesseees in certain cases outstanding demands).
- Exploring technological tools and address-mapping systems to improve the accuracy and effectiveness of notice delivery, particularly in cases involving repeated service failures or inaccessible addresses.

⁴⁶ For example, in *Amit Aggarwal v. ITO*, ITA No. 6855/Del/2019.

D. Issues at the First Appellate Level

The first appellate stage plays a critical role in the dispute resolution system by providing an opportunity to review the assessment record, consider additional submissions, and address issues that may not have been examined at the assessment stage. In principle and in law, it is a forum for both factual and procedural correction, and is critical particularly for cases arising from best judgment assessments where participation at the assessment stage is limited. However, the analysis of cases in this study indicates that, in 56.4% of the cases examined, issues originating at the assessment stage continued through the appellate process without meaningful resolution. This includes instances where additional material and evidence are not fully considered and where matters are not adjudicated on their merits.

Some Examples

- Confirming the assessment order without taking into account or recording detailed key submissions or evidence furnished by the assessee⁴⁷.
- Passing an ex parte order due to non-participation of the assessee, in cases where non-participation was due to ineffective service of notice to the incorrect email address, thereby replicating the same notice service failure instead of correcting it⁴⁸.
- Dismissing the appeal for non-prosecution without deciding the matter on its merits or passing a reasoned order based on the information available on record.
- Refusing to condone the delay in filing the appeal without considering vulnerability factors such as age, health, or digital illiteracy that contributed to the delay⁴⁹.
- Refusing to admit additional evidence under Rule 46A of the Rules (Rule 192, Income-tax Rules, 2026) without considering the circumstances that prevented its earlier submission or without adjudicating based on new evidence submitted⁵⁰.
- The CIT(A) failing to take into account existing jurisprudence on the matter (such as decisions of the High Courts and Tribunal)⁵¹.
- Technical dismissal under Section 249(4)⁵² for non-payment of admitted tax without considering the taxpayer's position that no tax was payable at all⁵³.

⁴⁷ *Irudhayaraj Maria Richard v. ITO*, ITA Nos. 312 & 313/Bang/2021.

⁴⁸ *Sri Guru Thipperudraswamy Devasthana v. ITO*, ITA No.2249/Bang/2024.

⁴⁹ *Suvarna v. ITO*, ITA No. 850/Bang/2025.

⁵⁰ *Mohammadali Thayalepurayil s. ITO*, ITA No. 13/Bang/2024.

⁵¹ *Mohammed Hanif Mohammed Yusuf Dharwadkar v. ITO*, ITA No. 135/Bang/2023.

⁵² *Corresponding provision: Section 358(7), Income-tax Act, 2025.*

⁵³ *Boregowda Rajanna v. ITO*, ITA No. 304/Bang/2024.

Recommendations

Strengthening the effectiveness of the First Appellate Authority in deciding appeals on their merits.

The limitations in the effectiveness of the First Appellate Authority in contributing to the resolution of Assessment Orders under Section 144 suggest greater focus on technicalities than on substantive justice on the merits, as well as practical difficulties in the service of notices, accessing assessment records, and assessees' appeal submissions. We recommend the following:

- The mechanisms for effective service of notices should be extended to the proceedings of the First Appellate Authority.
- The First Appellate Authority should be assured access to assessment records and the appeal submissions of the assessees.
- The CBDT must prescribe a Standard Operating Procedure (SOP) for First Appellate Authorities for effective implementation (both in letter and spirit) of the provisions of Section 250 that mandate the CIT(A) to conduct an inquiry, provide the assessee an effective opportunity to be heard, and to pass a reasoned order stating the points for determination, the decision thereon, and the reasons for the decision with emphasis on deciding appeals against assessment orders on their merits.

Conclusion

Section 144 was conceived as an exceptional mechanism, intended to ensure the completion of assessments within the limitation period in cases of genuine non-cooperation by the taxpayer. However, the sample of ITAT orders examined in this study suggest that in addition to deliberate taxpayer defaults, best-judgment assessments are also triggered by failures within the administrative process in a considerable number of cases: notices that were not effectively served, digital systems that excluded or disadvantaged vulnerable taxpayers, inadequate engagement by Assessing Officers with the evidentiary record, and issues within the appellate structure that prevented the effective resolution of disputes.

Several recommendations in this report are drawn from mechanisms already in operation with documented results. For example, in 2022–23, Australia’s in-house facilitation programme resolved, partly or in full, about 90% of disputes that went through the process⁵⁴. The United States’ Volunteer Income Tax Assistance programme prepared 2.8 million returns in 2025 with approximately a 96% accuracy rate, while its Low-Income Taxpayer Clinics secured over \$10 million in refunds and corrected over \$53 million in liabilities in 2024⁵⁵.

The patterns identified in the cases analysed suggest that many of the issues related to Section 144 assessment orders and consequential litigation are capable of being addressed through targeted procedural and institutional improvements. Comparative experience indicates that tax systems can maintain administrative efficiency while incorporating safeguards that enhance accuracy, reduce avoidable litigation, and strengthen procedural fairness, and promote the more efficient use of departmental and public resources. The central aim, therefore, is to restore Section 144 to its intended role as an exceptional mechanism, applied in cases of genuine non-cooperation.

⁵⁴ Australian Taxation Office, “The ATO Perspective: Alternative Pathways in Resolving Tax Disputes,” April 5, 2023.

⁵⁵ Internal Revenue Service, Publication 5683: VITA/TCE Handbook for Partners and Volunteers (rev. October 2025); Taxpayer Advocate Service, Low Income Taxpayer Clinics (LITC).



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