

Inadequate Parliamentary control over Public Revenue

Legislative silence or failure of CAG?

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Abstract

The purpose of this paper is to study the level of parliamentary control over public finance in India for ensuring accountability and transparency expected in a democratic form of governance. As per the Constitution of India, neither any money shall be collected nor the collected money be spent without the approval of the Parliament or the State Legislature, as the case may be. The accountability and transparency expected in spending should equally apply to revenue collection also, as they are the two sides of public finance. While the parliamentary control over public spending is complete with the system of parliamentary approval for spending and monitoring of the spending against its approval, through Appropriation Accounts, such control is not complete in respect of public revenue, as there is no parliamentary procedure to monitor the realisation of all revenues authorised by it. Consequently, crores of rupees of public revenue authorised by Parliament/Legislature could remain uncollected without its knowledge. Introduction of a Receipts Accounts showing the details of unrealised revenues with reasons and its presentation to Parliament/Legislature would fill the gap in parliamentary control and transparency in realisation of public revenue

Keywords: Parliamentary control, Management of Public Finance, Unrealized Public Revenue, Appropriation Accounts, Receipts Accounts

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I Statement of issue

1.1 Importance of management of public finance and parliamentary control

In a parliamentary democratic form of governance, supremacy of the collective body of people's representatives (Parliament), accountability of the government (having support of majority of representatives) to the Parliament during tenure of government and transparency in governance for public scrutiny of government's actions are the basic canons.

Though accountability and transparency are applicable to all activities of governance, the same in handling of public finance shall be the most mandatory as nearly everything, from a nation's survival to its growth, depends on its economic worth. Further, considering the susceptibility of public money in the hands of power, a complete parliamentary control and transparency in management of public finance is imperative.

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1.2 Objectives of the Study

The objectives of this study are to (i) assess the present level of parliamentary control over public finance - both revenue and expenditure, (ii) examine the need for bridging gaps in parliamentary control and (iii) evolve a system for adequate parliamentary control over management of public finance.

1.3 Methodology and coverage

The system and procedure followed for management of public finance by Union and State/Union Territory governments having Legislature are generally the same. As such, the Study covers both Union Government and State/UT Governments with Legislature. The terms Parliament, parliamentary control and government referred to in this Study Report hereinafter appropriately include State/UT Legislature, State/UT Legislature's control and State/UT (having legislature) governments respectively.

II Existing level of Parliamentary control over Public Finance

2.1 Parts of public money

Public money is kept in three parts viz. Consolidated Fund, Contingency Fund and Public Account (Articles 266, 267, 283 and 284 of the Constitution of India). The Consolidated Fund of India or States is the part where all government's own receipts are kept and spent. The Parliament/State Legislature has full control over this fund.

The other two parts viz., the Contingency Fund (a form of imprest placed at the disposal of government to meet unforeseen expenditures for which parliamentary approval was not obtained earlier) and the Public Account (keeping/accounting of other public moneys like Small Savings, Court deposits, Reserve funds, etc.) are incidental. The Government's role in the case of Public Account is only that of a custodian/banker.

2.2 Classification for allocation and accounting of public money

A six-tier classification structure with 15 digits code (commonly known as Head of account) viz., Major Heads (4 digits), sub-major heads (2 digits), Minor heads (3 digits), sub-heads (2 digits), Detailed heads (2 digits) and object heads (2 digits – not operated for Receipts Heads) is adopted for allocation of funds for expenditure by Parliament for various purposes and their spending and accounting. Similarly, the receipts are also accounted as per the classification code.

2.3 Stages in management of public finance

As per the Constitution, no tax shall be levied and collected except by authority of law (Article 265) and no amount can be drawn from the Consolidated Fund without parliamentary approval (Article 266 (3)).

Management of public finance involves three stages viz., (a) parliamentary approval for collection of revenue and their spending, (b) actual collection of revenue and spending by the executive government and (c) accounting the collection and expenditure and their submission to Parliament/State Legislature.

2.3.1 Parliamentary approvals for mobilisation of revenue and spending

As envisaged in the Constitution (Art.112/202), Governments present an Annual Financial Statement (Budget) showing estimated receipts and expenditure of the government to Parliament/Legislature for approval.

The Budget documents comprise, *inter alia*, Expenditure Budget giving details of estimated expenditures (expenditure to be charged upon the Consolidated Fund and other expenditure to be voted (authorised) by the Parliament/the State Legislature) under various heads and Receipts Budget with details of estimates of tax/non-tax/capital receipts along with explanation for the estimation.

The budget documents also include various statements like (a) statement of tax revenues raised but not realised in respect of some principal taxes and statement on arrears of non-tax revenues, as mandated by the Fiscal Responsibility and Budget Management Act, 2003, (b) statement of revenue foregone, (c) statements of liabilities, guarantees given by the government, statement of assets, etc.

2.3.1.1 Approval for expenditure

Expenditures proposed in the budget

The parliamentary approval for expenditure proposed in the Budget involves two stages, presentation of "Demands for Grants" and passing of the Appropriation bill.

The proposals for getting the approval estimated expenditure (the portion of estimates related to charged expenditure shall not be put to vote of the Parliament) from the Consolidated Fund are presented (Art. 113/203) in the form of 'Demands for Grants' (one main Demand for grants

comprising all the ministries/departments and Detailed Demand for Grant for each ministry/department).

After passing of Demands for Grants, Parliamentary approval for withdrawal of the amount from the Consolidated Fund is sought through the Appropriation bill (Article 114/204). This Appropriation Bill indicates the fund provisions for various expenditure (voted grants and the charged appropriations) as per the classification code. This bill would become an Appropriation Act with assent of the President/Governor.

For incidental and other expenditures

Apart from the budgetary procedure, the Constitution also envisages other procedures for incurring expenditure from Consolidated Fund. They are (i) Supplementary grant or appropriation' (Art.115 (a)/205 (a)) to enhance budget provision subsequently, (ii) Vote on account (Art.116 (a)/206 (a)) to meet expenditure till approval of Budget for the year, (iii) Vote of credit (Art.116 (b)/206 (b)) for meeting unexpected expenditures, the details of which cannot be given in the budget on account of magnitude or indefinite character of the service, (iv) Exceptional grant (Art.116 (c)/206 (c)) for expenditure not forming part of current service of any financial year and (v) Demands for excess grants (Art.115 (b)/205 (b)) for regularisation of excess expenditure incurred by the government during a financial year over and above the grants authorised by Parliament/State Legislature and the charged expenditure shown in the Appropriation Act for that year.

2.3.1.2 Approval for mobilisation of resources

The taxation proposals of the government for the ensuing year are introduced as Finance bill (Articles 265 and 110 (1)(a)/199 (1)(a)), immediately after presentation of budget. It contains the details of imposition of new taxes and abolition, remission, alteration or regulation of existing taxes. It is accompanied by a memorandum explaining the provisions of the bill and their effect on the finances of the country. The Finance bill is normally considered and passed by the Lok Sabha/Legislative Assembly after the 'demands for grants' have been voted i.e. after the total expenditure authorised by it is known. With the assent of the President/Governor, this bill becomes the Finance Act.

2.3.2 Collection and spending of money by the executive government

A treasury system, with Pay and Accounts Offices (PAOs)/Treasuries, is in place for transaction of public money and their accounting. The governments have an arrangement with the Reserve Bank of India for banking facilities.

The departmental officers, entrusted with the responsibility of collection of government revenue, are to collect the revenues and remit them into treasury/banks (through a challan indicating the head of account) for the credit of the government accounts concerned. Individuals/other entities can also directly remit dues to government accounts.

Similarly, officers for incurring expenditure (generally known as Drawing and Disbursing Officer, DDO), are to submit bills to the treasury/PAO seeking the amount required for spending mentioning

the appropriate head of account. On passing (i.e. after disbursing the amount), these bills would be termed as vouchers.

2.3.3 Accounting and presentation of accounts to the Parliament

The accounts of governments are maintained on cash basis¹. From the challans and vouchers, initial accounts like treasury accounts, monthly accounts of the government are compiled. Based on these, the Annual Accounts viz., Finance Accounts and Appropriation Accounts are compiled/prepared by the Controller General of India/Ministries/Comptroller and Auditor General of India/State government of Goa/UT of Puducherry, as the case may be. These accounts, after scrutiny and certification by the Comptroller and Auditor General of India, are presented to the Parliament/State Legislature.

The **Finance Accounts** is an account of both actual receipts and expenditure/disbursements under all three parts of government accounts, along with government assets (investments) and liabilities (borrowings).

The **Appropriation Accounts** is an account of the expenditure incurred by the government against the funds approved by Parliament/Legislature for various purposes from the Consolidated Fund. This Account depicts head-wise details of funds approved for the year and the actual expenditure against them with resultant savings (unspent approved funds) or excess (expenditure over and above the approved funds). The reasons/explanations of the government for significant saving or excess are incorporated therein.

2.4 Auditing and placing of Audit Reports in the Parliament/State Legislature

The Comptroller and Auditor General of India (CAG) also audits, *inter alia*, the receipts and expenditure of the governments and submits his Audit Reports thereon to the President/Governor for their placement in Parliament/State Legislature (Articles 149 and 151 and Sections 13 and 16 of CAG's (DPC), Act 1971).

2.5 Parliamentary monitoring through the Accounts and Audit Reports

Of the two Annual Accounts, Finance Accounts is not examined in detail as it depicts only the actual receipts and expenditure/disbursements. All the Audit Reports and Appropriation Accounts are examined in detail by a Parliamentary/Legislature Committee viz., Public Accounts Committee (PAC). After obtaining further explanation from the government, PAC makes appropriate recommendations for further action by the government. The Reports of PAC containing its recommendations for further action and its Reports on Action Taken by the government on those recommendations are presented to the Parliament/State Legislature.

PAC examines Appropriation Accounts to see, *inter alia*, whether the entire approved funds have been spent for the purpose for which they were approved. It further investigates the reasons for spending more or less than the monies approved. All excess expenditures brought out in Appropriation Accounts are to be regularised by Parliament/Legislature through 'demands for excess grant'.

2.6 Inadequacy of provision for control over revenue realisation

From the above, it is evident that, in the case of expenditure, the control starts with authorisation of expenditure (Appropriation Act specifying quantum of funds approved for each item of expenditure) by the Parliament/Legislature. The compliance of the government is watched through Appropriation Accounts submitted to it. PAC examines the Appropriation Accounts in detail for fixing accountability for not spending the approved provision of funds or incurring excess expenditure. All excess expenditures are to be regularised by the Parliament/State Legislature. In addition, CAG's Audit Reports on expenditure are also available for further accountability on other financial improprieties.

In respect of revenue also, the control starts with authorisation for mobilisation of resources (Finance Act); but there is no mechanism to watch whether the government has collected all the revenues authorised by Parliament/State Legislature or not, besides the Audit Reports on receipts.

Thus, accountability of the executive government and transparency in respect of expenditure is ensured through two tools, Appropriation Accounts and Audit Reports on expenditure. But in the case of revenues, only one tool, the Audit Reports on Receipts is available to the Parliament/Legislature.

The existing Constitutional and other statutory provisions for the parliamentary control and the gap in monitoring of revenue collection is illustrated in the table below:

Nature of control	Revenue	Expenditure
Initial parliamentary approval (for revenue collection and incurring expenditure)	Budget (Article 112 for Union/202 for States)	
	Article 265 – No tax be levied without authority of law	Article 266 (3) – No money be drawn except in accordance with law
	Article 110(1)(a) - Finance Act (Non-tax revenues are also levied by government as per power delegated by various Acts)	Articles 114, 115,116/ 204, 205, 206 - Appropriation Acts
Actual Receipts and expenditure (Transparency)	Finance Accounts (Section 11 of CAG's (DPC) Act)	
Monitoring compliances of Parliament's approval (Accountability and Transparency)	?	Appropriation Accounts (Section 11 of CAG's (DPC) Act)
Accountability for financial impropriety (Accountability and Transparency)	Audit Reports (Section 13 of CAG's (DPC) Act)	Audit Reports (Section 16 of CAG's (DPC) Act)

Thus, in the existing control mechanism, while even a rupee cannot be spent from the Consolidated Fund without the knowledge of Parliament/Legislature, crores of rupees of revenue to be collected as authorised by it could remain uncollected without its knowledge.

When the fiscal management and monetary results (fiscal/revenue surplus or deficit) depend on both revenue collection and expenditure incurred, the efficiency, transparency and accountability expected of in spending should equally be applicable to revenue realisation also. But Parliamentary control over revenue realisation is not as complete as that of expenditure. Consequently, a monitoring system to watch the collection of unrealised revenue to its finality is absent. Thus, a significant gap is in parliamentary control over revenue realisation.

III Causes for the gap in control over public revenue

3.1 Is it due to Legislative silence?

The importance of management of public finance was appropriately felt by the Constituent Assembly, as may be noted from the speeches given below:

(i) Dr Ambedkar: "...He (CAG) is the one man who is going to see that the expenses voted by the Parliament are not exceeded or varied from what has been laid down by Parliament in what is called the Appropriation Act...". (Constituent Assembly Debates, Volume VIII, May 30, 1949)

(ii) Shri T. T Krishnamachari: "... I agree that what we want is that the total amount of financial resources available both for the Centre and the units has to be augmented and it has to be augmented if the ultimate purpose of this Constitution, namely the economic betterment of the common man is to be undertaken. ...". (Constituent Assembly Debates, Volume XI, November 25, 1949).

(iii) Dr B Pattabhi Sitaramayya: '... no matter how perfect the Constitutions may be, no matter how numerous may be checks and balances and safeguards for the right conduct of business of the future, it is money that counts, and we have to deal with about 370 crores at the Centre and as much money in the Provinces, and if all this money is not spent aright, and if the people deliver cheap gibes at men like me who count rupees, annas and pies, and to who, every rupee means 16 annas and every anna means 12 pies, then there is no government at all worth mentioning, it is anarchy, it is chaos. It is loot. It is dacoity. And who is to control this? Is it to be man who is appointed by the Ministry that should control this? No. The Comptroller and Auditor General must be as supreme and independent as the Judges of the Supreme Court ...'. (Constituent Assembly Debates, Volume XI, November 25).

(iv) The President of the Constituent Assembly, in his concluding remarks on 26th November, 1949 (volume XI): '... Another independent authority is the CAG who will watch our finances and see to it that no part of the revenues of India or of any of the States is used for purposes and on items without due authority and whose duty it will be otherwise to keep out accounts in order, when we consider that our governments will have to deal with hundreds of crores, it becomes clear how important and vital this department will be.' (Constituent Assembly Debates, Volume XI, November 26, 1949).

Accordingly, they have incorporated constitutional provisions for maintenance of accounts (Article 150) and audit of accounts (Article 151) by an independent authority, CAG of India and

submission of Accounts and Audit Reports to Parliament/Legislature (Article 152). However, regarding CAG's duties, they allowed *status quo* (Article 149), i.e., CAG was to continue to perform the same duties he/she was discharging immediately before commencement of the Constitution, until provision in this regard is made by the Parliament.

In the Parliament Act subsequently enacted in 1971 detailing the duties and powers of CAG - Comptroller and Auditor General's (Duties, Powers and Condition of Service) Act, 1971 -, there is explicit mention only for preparation of Annual Accounts showing receipts and disbursements and Appropriation Accounts², in addition to provisions for audit of expenditure and revenue (Section 13 and 16 respectively).

As per section 16, CAG shall audit all receipts which are payable into Consolidated Fund of India/States/UTs having Legislative Assembly and satisfy himself that the rules and procedures on that behalf are designed to secure an effective check on the assessment, collection and proper allocation of revenue and being duly observed and shall make for this purpose such examination of the accounts as he thinks fit and report thereon.

When section 16 mandates the CAG to audit all receipts payable and to make examination of the accounts, a specific mention could have been made appropriately for a Receipts accounts showing the uncollected revenues, as the Finance Accounts showing only actual receipts and disbursement would not provide adequate input for audit of all receipts payable.

Thus, there is no explicit provision in the Constitution or in the Statute for preparation of an Accounts showing the uncollected revenue dues to monitor their realisation.

3.2 Is it due to the failure of CAG?

Though Section 16 specifically requires CAG to examine the accounts to satisfy himself that the rules and procedures are designed to secure an effective check on the assessment, collection are being duly observed, no accounts indicating that all the receipts payable into Consolidated Fund have been prescribed by CAG. Curiously, even CAG's Revenue Audit Manual on Direct Taxes, 2015 providing guidelines for audit of direct taxes, while referring to his authority to audit the receipts, in paragraph 1.2 omitted the word 'examination of the accounts' mentioned in Section 16. The portion is reproduced below:

'... Section 16 of the C&AG's DPC Act authorises C&AG to audit all receipts (both revenue and capital) of the Government of India and of Governments of each State and of each Union Territory having a legislative assembly and to satisfy himself that the rules and procedures are designed to secure an effective check on the assessment, collection and proper allocation of revenue and are being duly observed.' (Revenue Audit Manual, 2015, 1)

The Manual, while further listing out the main items of work to be undertaken during Compliance Audit (*ibid* paragraph 4.4.3, 17) and the records and statistical information required to be called for conducting audit (paragraph 6.2 (c) and Appendix 11, *ibid*), mentioned only 'Getting Demand and Collection (DCR) Register' and "Hard and soft copies of Demand & Collection Register (D&CR) in respect of assessed cases" and Collection of Tax in Arrears in the case of audit of Tax Recovery Offices.

Thus, it is evident that no accounts enabling audit of all receipts payable into Consolidated Fund have been prescribed. The limitations of receipt audit relying on only the Demand & Collection Register and Data on collection of tax in arrears as furnished by a Revenue collecting Department are detailed in Paragraph 4.3 below.

As per Article 150, the accounts of the Union and of the States shall be kept in such a form as the President may, on the advice of CAG, prescribe. Accordingly, CAG could have prescribed a form of accounts for monitoring unrealized Receipts and prepared a Receipts Accounts based on that and presented to the Parliament/Legislature.

IV Need for parliamentary monitoring of revenue realisation

4.1 Finance Accounts – not enough for monitoring of Revenue collection

Finance Accounts, as already discussed, gives only the details of actual receipts and disbursements. Accordingly, the contents of the Finance Accounts would not be sufficient to monitor what the Parliament/Legislature intended and what the executive government has done. Consequently, an additional arrangement has been made for the purpose for Expenditure (Appropriation Accounts), besides the Audit Reports on expenditure. But there is no similar arrangement in respect of Revenue collection, besides Audit Reports.

The grounds/justification for preparation and submission of Appropriation Accounts to the Parliament are equally applicable to the revenue, as the collection of which was also authorised by it. The authorising body should know whether the entire revenue authorised/intended by it is collected or not and if not, the reasons therefor.

4.2 Limitations of Statements on ‘Revenue not realised’

The Fiscal Responsibility and Budget Management Act (FRBM Act) in 2003 and the Rules, 2004 made thereunder, in order to ensure greater transparency in fiscal operation in the public interest, *inter alia*, compels the Central government to make more disclosures and one of such disclosures is made with Receipt Budget in two Statements (i) Tax Revenue (principal taxes) raised but not realised and (ii) Arrears of Non-tax revenue (Receipt Budget, Union government, Annexures 5 and 6).

The statement on tax revenue gives the age-wise pendency – from over one year to over 10 years – under two heads viz., amounts under dispute and amounts not under dispute. The statement on non-tax revenue gives age-wise pendency 0-1 year to over 5 years. This provides transparency to an extent, but without any system for fixing accountability for non-collection. Further, the disclosures are also not adequate, timely, and complete. The figures are not certified by any external agency and as such it would not satisfy even the aspect of transparency, as detailed below:

- i. In case of Tax, it covers only principal taxes. The positions of other taxes are not given. In respect of non-tax revenue also, it is not clear whether all arrears are included.
- ii. The two statements, each of a page only, gives only the consolidated position of unrealised revenue.

- iii. The amounts shown as not realised are only against the demand raised. It does not give an assurance that demand has been raised in all cases.
- iv. The two statements depict the position of non-realisation as of two years prior to the year in which it is presented. For instance, the Receipt Budget for 2021-22 gives position at the end of 2019-20.
- v. The reasons for non-realisation tax except 'under dispute' are not given (the nature of the dispute is, also, not given).
- vi. The two statements did not give any opening positions, amount collected/waived therefrom, etc. The correctness of the figures is not certified by any external/independent agency.

4.3 To make the Receipt Audit effective

In the existing cash-based accounting system, financial activities cannot be easily traced unless there is flow of cash. For instance, if a leaseholder of government property has been not paying the lease for years together, and the transaction did not find a place in the Finance Accounts, Audit may not easily come to know of this due. Under the circumstances, the Auditor has to rely mainly on the figures given by the departments.

An observation of CAG of India given below, is an indicator of the lacuna in this regard:

“We have compiled this Chapter based on data mainly obtained through the Central Board of Excise and Customs. It (CBEC) provided data for the 3-year period FY11, FY12 and FY13 relating to various performance parameters such as preliminary and detailed scrutiny, refunds, arrears in realization, pendency of call bookcases, etc., in August 2013. However, we observed that in some instances, data furnished did not tally with information furnished for the last Audit Report (AR No.17 of 2013) and would need reconciliation by the department. There is an urgent need to improve the quality of data and of monitoring aspects in respect of Service Tax. Authorities such as Directorate General of Service Tax, Mumbai, Directorate General of Inspection, Customs and Central Excise, New Delhi, Directorate General of Central Excise (Intelligence), New Delhi, etc., should ensure maintenance or reliable data for use, *inter alia*, by Audit. Review of the formats of Monthly Technical Report Annexures in Service Tax to ensure that important items such as conduct of detailed scrutiny are not lost of, is vital. There is no periodic return in the department which monitors the number of cases and amount of interest paid in respect of refunds. In the current scenario where there is no distinct accounting head for accounting interest on refunds, it is not clear how accurate and reliable the figures provided are...” (Comptroller and Auditor General of India 2014, 23-24)

Thus, an exclusive and additional Accounts showing the unrealised revenue is a prerequisite to fully serve the objective of receipt audit.

4.4 To make available details of unrealised revenue on regular basis

Parliament is entitled to know whether the monies as intended by it have been collected or not. They are also entitled to know the reasons for non-collections; if possible, the details of the institutions/bodies/organisations/individuals from which/whom significant portions remain to be collected. In the absence of the details on a regular basis, they can only be obtained either under Right to Information Act or by the Members of Parliament through questions. For instance, a parliamentary

question answered in the Parliament by the Minister of State for Ministry of Finance is given below (26th August 2011):

Question: Will the Minister of Finance be pleased to state

- a. Whether the government has constituted a task force for recovery of income tax arrears;
- b. If so, the details thereof;
- c. The amount recovered by this task force as on 31 December 2010; and
- d. The time by when the government is likely to recover the full arrears?

Answer:

- a. Yes sir
- b. The Income Tax Department has constituted task force from time to time for recovery of income tax arrears and with an objective to evolve and implement a multi-pronged strategy for collection of arrear tax
- c. The department does not maintain separate data about the recovery made by the task force. However, the amount of tax arrears recovered by the department during last two financial years and during financial year 2010-11 as on 31 December 2010 is as below:

Financial year	Amount collected (Rs in crore)
2008-09	10,016
2009-10	11,939
2010-11 as on 31.12.2010	7,079

- d. The raising of demand and collection of outstanding taxes is a continuous process, and all out efforts are made by the Income Tax Department to collect the outstanding taxes. As tax arrears is not a static concept, it is not possible to recover arrears in full at any given point of time.

Thus, as of now, neither Parliament nor citizens knows the names of even major defaulters of government dues and details of action taken by the government, on a regular basis.

4.5. Transparency and Parliament's obligation to ensure revenue recovery

In the judgment (6 January, 2014) on the audit jurisdiction of CAG on the accounts of the license holder to establish, maintain and operate cellular mobile telephone services, the High Court of Delhi observed (para 16) that the three features of 'club governance' viz., (i) informality, (ii) reliance on knowledge acquired by insiders by virtue of their insider status and (iii) screening from public scrutiny and accountability had to be replaced or displaced by (i) standardisation and formality, (ii) the provision of systemic information accessible both to insiders and outsiders and (iii) strengthening the control mechanism and public reporting (2014).

The Supreme Court of India also observed, in its judgment (17 April 2014) on the appeal of the above case along with other civil appeal that Parliament has an obligation to ascertain whether the entire receipts by way of license fee, spectrum charges, have been realised by the Union of India and credited to the Consolidated Fund of India.

Thus, the highest court of the country also wishes a complete parliamentary monitoring of revenue realisation.

4.6. Significance of receipt realisation for fiscal management and economic growth

Good governance and better financial management cannot be confined to the quality of spending alone. The efficiency and effectiveness in spending the money collected should be ensured in collection of revenue also. The financial deficit depends both on receipts and expenditure. There may be other easier options to keep the fiscal and other deficits under control like restriction of expenditure at the cost of development. But more economic growth can be achieved, and welfare schemes implemented with the same level of fiscal deficit, provided all the revenue dues are collected.

The fiscal deficit³ of the Union government, for the year 2019-20 was Rs 10,31,126 crore (Comptroller and Auditor General of India 2021, para 1.3). As per the Receipts Budget for 2021-22, the tax revenue (principal taxes) raised but not realised and arrears of non-tax revenue were Rs 12,97,975 crore and Rs 3,32,428.66 crore respectively, as at the end of reporting year 2019-20. The collection of these arrears alone would have been enough to set off the fiscal deficit of the year. In lieu of the realisation, the alternative course of option⁴ to the governments would be borrowing/using the public account fund and thus the Union government created the above additional liability with inherent interest burden. The above position would highlight the importance of the realisation of receipts. A systemic parliamentary monitoring would have its positive impact on the level of revenue collection facilitating better finance management.

4.7. Applicability of concept of non-performing assets to public finance

Non-performing Asset, a classification of loan by the financial institutions, is an asset not yielding any income. The concept of non-performing assets could be equally applicable to public finance also. The unrealised revenue is only a non-performing asset as it is not available to the government for its use, resulting in either more borrowings with interest liability or cutting of developmental/welfare activities to that extent.

Bringing in the concept of non-performing assets to public finance would attract due attention and facilitate executive accountability.

4.8 Sale and utilisation of assets – within the executive power of government

The Constitution vested all public properties, assets, lands, minerals, other things of value underlying the ocean within the territorial waters and in the continental shelf with the Union/States (Articles 294 to 297). The Constitution, also, leaves the further acquisition, holding and disposal of the property and making of contracts for any purpose to the Executive power of the Union and States (Article 298). Thus, managing and sale of these assets, fixation of sale value, rent, etc., are within the executive power of the government.

4.8.1 Increasing private participation

The concepts liberalisation and privatisation redefine the role of government. With the advent of these concepts, many activities hitherto done by the government or through government undertakings are being opened to private parties with new ideas/arrangements like Build, Operate and Transfer (BOT), Build, Own, Operate and Transfer (BOOT), Public Private Participation, Profit sharing contracts, etc. Under these arrangements, the public assets either become commodities (like minerals, petroleum) or get used by the private parties (like land for lease rent).

The case of mining operation may be a typical example to indicate the trend of private participation. As per the Industrial Policy Resolution, 1956, major minerals such as coal, lignite, mineral oil, iron ore, copper, atomic minerals, etc., were reserved exclusively for the public sector. The Comprehensive National Mineral Policy (NMP) announced in March 1993, encouraging private investment including Foreign Direct Investment (FDI) in exploration and mining, mining operations in major minerals opened-up to these areas to the private sector. The position has been further eased in the following period.

4.8.2 Power of executive government to vary rates of revenue charges

The executive government is empowered to vary (increase/reduce) the rates of certain non-tax revenues without requiring any further approval therefor from the Parliament/State Legislature.

For instance, as per Sections 9 (3) and 9A (2) of Mines and Minerals (Development and Regulation) Act 1957, as amended up to April 2012, the Central Government may, by notification in the Official Gazette, can enhance or reduce the rate of royalty payable in respect of any mineral and dead rent payable by the lessee.

The above position coupled with more private participation would indicate the seriousness of the accountability issue and proneness of the system.

4.8.3 Some policy decisions without knowledge of the Parliament

Sometimes, policy decisions not involving legislative aspects are not specifically discussed in the Parliament. For instance, the New Telecom Policy (NTP), 1999 was not discussed in the Parliament, as may be noted from the following passage in the Report of the Joint Parliamentary Committee to examine the matters relating to allocation and pricing of Telecom Licenses and Spectrum:

“Regarding the desirability of a discussion on the new telecom package when the new parliament was to be constituted at a later date, it was clarified that the New Telecom Policy (NTP), 1999, which was approved by the Cabinet on 26th March 1999 was neither specifically discussed in Parliament nor was this necessary to do so particularly so no legislative aspect was involved. A copy of the policy was, however, placed in the Parliament Library/Parliament Secretariat.” (Report of JPC, 2013 para 3.10)

All the above indicates more executive actions with significant ramifications on the public finance without knowledge of the Parliament/Legislature. In the absence of any system for transparency and accountability, no outsiders would come to know whether all the revenue dues have been realised or not.

4.9 To make tax collection machinery robust and accountable

The details of non-levy and quantum of uncollected dues would provide the basis for evaluating the efficiency/adequacy of the revenue collection system.

The need for robust tax collecting machinery was observed by the Supreme Court of India on the writ petition relating to black money as follows (Ram Jethmalani & Ors vs Union Of India & Ors 2011):

“... Secondly, large quanta of monies stashed abroad, would also indicate a substantial weakness in the capacity of the State in collection of taxes on incomes generated by individuals and other legal entities within the country. The generation of such revenues is essential for the State to undertake the various public goods and services that it is constitutionally mandated, and normatively expected by its citizenry, to provide. A substantial degree of incapacity, in the above respect, would be an indicia of the degree of failure of the State; and beyond a particular point, the State may spin into a vicious cycle of declining moral authority, thereby causing the incidence of unlawful activities in which wealth is sought to be generated, as well as instances of tax evasion, to increase in volume and in intensity.” (ibid, paragraph 8)

“.....The strength of tax collection machinery can, and ought to be, expected to have a direct bearing on the revenues collected by the State. If the machinery is weak, understaffed, ideologically motivated to look the other way, or the agents motivated by not so salubrious motives, the amount of revenue collected by the State would decline, stagnate, or may not generate the revenue for the State that is consonant with its responsibilities. (ibid, paragraph 14)

A system for complete disclosure of unrealised revenue and its reporting to the Parliament would bring a continuous machinery for monitoring tax-collections.

V Feasibility of preparation of proposed Receipts Accounts

5.1 Types of government receipts and flexibility of existing accounting system

The receipts of the governments and the major heads of accounts therefore are as follows:

Tax Revenues	0020 to 0045
Non-tax Revenue	0046 to 1475
Grants-in-aid/contributions	1601 to 1606
Capital Receipts	4000
Borrowings	6001 to 6005
Loans and advances given by government	6075 to 7615

As detailed in paragraph 2.2 above, the 6-tier government accounting system consists of various tiers below with a coding pattern. Interestingly, it provides for accounting of refund of tax revenue by opening of a separate sub-head under appropriate minor head, so that the net collection of each tax could be ascertained. For refund of Non-tax revenue, the classification provides for specific minor head viz., “Deduct – Refunds” (code 900).

Similarly, there are provisions for accounting of recoveries of overpayments/refund of expenditure. If it is made in the same year, it would be treated as a reduction of expenditure. When they relate to previous years, they are to be accounted under a distinct minor head ‘911 Deduct – Recoveries of over payments’ below the relevant major/sub major head of expenditure so that current year’s expenditure could be ascertained.

From the above, it may be clear that there are lots of scope for introduction of additional codes to meet requirements like dues, demand raised, etc., within the existing accounting system with suitable modifications. Alternatively, proposed Receipts Accounts may be prepared outside the government accounting system also, as detailed in the subsequent paragraph, 5.2.

5.2 Availability of data/inputs for the proposed Accounts

Of various government receipts, the actual revenues of the governments are taxes and non-tax receipts and capital receipts (other than borrowings and loans and advances). Government has no control over the grants-in-aid/contributions received. Thus, the system for monitoring of realisation of revenues requires only tax and non-tax revenues and miscellaneous capital receipts.

In the existing system two details viz., Budget Estimates for receipts and Actual receipts are available. The comparison of these two would disclose the level of accuracy of estimates prepared or level of performance against the estimates.

The other inputs required for arriving at the unrealised revenue are

- Amount to be levied
- Amount levied/demand raised
- Amount actually collected

Of the above, arriving at the amounts to be levied in respect of Tax revenue would only be a big challenge, while that of for non-tax revenue (mostly in the nature interest, fees for services, Royalty, leasing charges, rent, receipts on account of profit-sharing arrangement) could be easily ascertained loan/lease agreements, etc. The details of amount levied/demanded and collected would always be available with the departments concerned.

For the amounts to be levied in respect of tax revenues, a non-financial account containing details of number of assesses registered with the department, the number of assesses not filed the return, number of returns not assessed/demand raised, etc., may be maintained. These positions of returns not filed and non-assessed would provide a base to pursue the cases, besides ensuring the continuity/control over the cases of unpaid taxes/unfiled returns.

5.3 Model of Accounts proposed

The proposed accounts shall contain all information like total revenue due (physical data like total assessed for tax revenue), demand raised, amount collected and balance remains to be levied/collected with reasons therefor. If feasible, the details of individuals/entities with significant dues can also be included.

In view of its uniqueness, the model Appropriation Accounts could only be adopted with appropriate modifications. Therefore, the proposed Accounts may be made into two parts, viz., (i) Summary of revenue/receipts giving overall position and (ii) Detailed part with more information. While, the Summary part would depict the actual collection during the year compared to the total due including arrears and Budget Estimates, the Detailed part would give Head wise details of receipts realised and not realised with reasons for non-realisation. The formats for the same are given below:

A. Summary of receipts

1. Tax Revenue

Major Head	Description	Opening Balance	Demand Made during the year	Out of OB		Out of current demand		Closing Balance
				Collected	Settled	Collected	settled	
0020	Corporation Tax							
0021								

2. Non-tax Revenue

Major Head	Description	Opening Balance	Demand Made during the year	Out of OB		Out of current demand		Closing Balance
				Collected	Settled	Collected	settled	
	Interest							
	Royalty							

3. Capital Receipts (non-debt)

Major Head	Description	Opening Balance	Demand Made during the year	Out of OB		Out of current demand		Closing Balance
				Collected	Settled	Collected	settled	
	Dividend							

B 1 Detailed Receipts Accounts (Tax Assessments)

Two separate tables (a) and (b) – for each Major Head

a) Details of returns filed (Major Head wise)

OB of Returns not filed	No. of Assesseees for the year	No. of Assesseees filed Returns during the year		Total pendency in filing of returns at the end of year
		for previous years	for current year	

- i. Reasons for increasing trend of pendency (if so) in filing the returns.
- ii. Details of major actions taken to get the returns filed

b) Details of assessments/demands made (Major head-wise)

No of assessments pending at beginning of the year	No. of Assessee's filed Returns during the year	No. of cases assessed during the year		No of assessments pending at the end of the year
		Of previous years	Of current year	

- a. Reasons for non-assessment of cases
- b. Details of major actions taken for completion of assessment

B 2 Detailed Receipts Accounts (Tax revenue)

c) Details of amount realised and not realised (Minor head wise or Region-wise)

Major Head:

Minor Head/ Region	Description	Opening Balance	Demand Made during the year	Out of OB		Out of current demand		Closing Balance
				Collected	Settled	Collected	settled	

- i. Reasons for the pendency of items beyond a limit (may be prescribed by PAC)
- ii. Reasons for settlement of items beyond a limit (may be prescribed by PAC)

Amount under dispute						Amount not under dispute						Grand Total
over 10 years	over 5 years	over 2 years	over 1 year	current year	Total	over 10 years	over 5 years	over 2 years	over 1 year	current year	Total	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)

d) Details of unrealised receipts (Minor head wise or Region-wise)

- (i) For the amount under dispute -Significant reasons for pendency/dispute
- (ii) For the amount not under dispute - Significant reasons for the pendency

Details of significant items (i.e limit as may be prescribed by PAC) under both the categories with action taken/present stage of the case/collection

The formats for Detailed Receipts accounts for non-tax revenues and Capital Receipts (Non-debt) may be (c) and (d), department-wise.

5.4 Preparation and certification of Receipts Accounts

In accordance with the existing arrangement, compilation and preparation of the proposed Receipts Accounts may also be entrusted to the same organisation/authority which is now preparing

the Finance and Appropriation Accounts. Alternatively, accounts may be prepared by the major tax collecting Department concerned and the Finance Ministry for all minor taxes non-tax revenues.

The proposed Accounts should, however, be required to be certified by the Comptroller and Auditor General of India before presenting them to the President/Governor.

VI Conclusion

The accountability and transparency, and efficiency and effectiveness expected of in spending should equally apply to revenue collection also, as the effectiveness of financial management depends on both revenue realisation and quality of spending.

The extant system of parliamentary control is not complete in respect of revenue collections. Consequently, crores of public revenue remain uncollected without the knowledge of Parliament and people of the country depriving the benefit of public scrutiny of revenue collecting machinery of the government.

In the scenario of emerging trends with more and more private participation and allowing them to utilise public assets and properties, it is imperative to have a robust mechanism to ensure closer monitoring of revenue collection by the Parliament/Legislature, besides ensuring adequate transparency for public scrutiny.

Road map: Either suitable explicit statutory provision is to be made for preparation of a Receipt Accounts and its submission to the Parliament/State Legislature or CAG shall exercise his authority under Article 150 for prescribing appropriate form of accounts for a Receipts Accounts.

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Notes

¹ The system of accounting under which the receipts and expenditure are recognized as and when collected/paid; moneys due to or due by the entity is not shown in the accounts

² Section 11: The CAG shall from the accounts compiled by him or by the Government or any other person responsible in that behalf prepare in each year accounts (including, in the case of accounts compiled by him, appropriation accounts) showing under the respective heads the annual receipts and disbursements for the purpose of the Union, of each State and of each Union territory having a Legislative Assembly, and shall submit those accounts to the President or the Governor of a State or Administrator of the Union territory having a Legislative Assembly, as the case may be on or before such dates as he may, with the concurrence of the Government concerned, determine (with further provisos for relieving CAG from preparation and submission of the accounts).

³ Fiscal deficit is the excess of total expenditure including repayment of debt charges over the total receipts including receipts from the sale of assets but excluding the borrowing during a financial year. This indicates the shortage of receipts to meet the expenditure and the shortage is to be managed by borrowing.

⁴ Finding the traditional methods of managing fiscal deficit by printing of more money or using the foreign exchange reserve ineffective, the main source to fill the deficit is, now, generally borrowing