



Interplay between Sec. 44AB, 44AD, 44ADA & Sec. 44AE and Issues on important clauses in Form 3CD

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AUDITOR



WE SOLVE PROBLEMS

You didn't know you had

**IN WAYS YOU DON'T
UNDERSTAND**

CA Satish Shanbhag

Time Limit for filing TAR and ITR

'Specified Date' (Expl. (ii) to Sec. 44AB): [one month prior to the due date u/s. 139(1)] Due date extended by Circular no. 09/2021 dated 25.06.2021

AY 2021-22

| <u>Due Date u/s 139(1) for ITR and due date for TAR</u> | <u>Extended Due Date ITR</u> | <u>Extended Due Date TAR</u> |
|--|------------------------------|------------------------------|
| 1. Corporate Assessee 2. Non-Corporate Assessee (Tax audit or audit under any other law) 3. Partner of firm under Tax audit or audit under any other law | 30.11.2021 | 30.10.2021 |
| Assessee requiring to submit report u/s. 92E - Transfer pricing | 31.12.2021 | 31.11.2021 |
| Belated/Revised return | 31.01.2022 | NA |

TAX AUDIT - APPLICABLE LEGISLATION

Relevant Sections



- Sec. 44AB
- Sec.44AD
- Sec. 44ADA
- Sec.44AE

Rule 6G



- Form 3CA
- Form 3CB
- Form 3CD

Penal Provisions



- Sec. 271B
- Sec. 276CC
- Sec. 271J

Rule 6G :Report to be furnished u/s. 44AB

FORM 3CA

In the case of a person who carries on business / profession and who is required by or under **any other law** to get his accounts **audited**. Eg- Company, LLP, Trust, etc.

[Clause (a) of Rule 6G]

FORM 3CB

In the case of a person who carries on business / profession, but not being a person referred to in clause (a).

FORM 3CD

The particulars which are required to be furnished u/s. 44AB.

Whether Form 3CA or Form 3CB ??

- Newly formed Company from 01.02.2021 (DOI).
- Turnover for two months ended 31.03.2021: Rs. 12 Crores.
- Companies Act permit 1st year Financials for 15 months [Sec. 2(41)]

- Whether ITR can be filed for 15 months ending on 31.03.2022 ??
- Which form to be filed- 3CA or 3CB?

- **Companies Act:** 1st year financials allowed for 15 months ending on 31.3.2022.
- **IT Act:** It is only for 3 months ending on 31.3.2021 (*Sec. 3: Previous year*).
- **Form 3CB be used.:** Since 3 months Accounts do not require Audit under Co. Act.

TAX AUDIT : PENAL PROVISIONS

Penalty u/s. 271B

Lower of :
0.5% of total sales, turnover or
gross receipts or
Rs. 1,50,000.

Prosecution u/s. 276CC for
non filing of Return.

Penalty u/s. 271J (in context of
TAR): Furnishing incorrect
information in reports or
certificates- Rs.10,000 per
report/certificate to be paid by
accountant/merchant
banker/registered valuer.

a. Business : Exceeds Rs. 1 crore / 10 crore

b. Profession : Exceeds Rs.50 lakhs

c. Business : u/s. 44AE, 44BB, 44BBB
Income is less than Deemed Profits / Gains

d. Profession u/s. 44ADA,
Income < Deemed Profits / Gains
Income > Max Amt not chargeable to tax

e. Business u/s. 44AD,
If provisions of Sec. 44AD(4) are applicable
Income > Max Amt not charge 'able to tax

Sec. 44AB :Tax Audit Provisions

Distinction between the clauses?

Consequences of Tax Audit done when not required as per law?

Sec. 44AB : Tax Audit Provisions

Clause 44AB(a) - (Amendment w.e.f. AY 2021-22)

Limit of Rs.10 crore* applicable when following conditions are satisfied:

a. aggregate of all amounts received in cash does not exceed 5% of the said amount;

AND

b. aggregate of all payments made in cash** does not exceed 5% of the said payment.

* Substituted for Rs.5 Crores (Fin. Act. 2021).

Cash includes **other than account payee cheques/drafts (Fin. Act. 2021).

Applicability of tax audit u/s 44AB(a)

How to compute cash receipts / payments?

- Higher limit of Rs.10 Crores available only if both cash receipts **and** cash payments are below 5% of total receipts and total payments respectively.
- T/O of assessee (firm) : Rs. 800 Lakhs.

| Receipts | Total Rs. Lakh | In Cash Rs. Lakh | Payments | Total Rs. Lakh | In Cash Rs. Lakh |
|--------------------------------------|----------------|------------------|---|----------------|------------------|
| Receipts from Sundry Debtors (Sales) | 700 | 40 | Payment to Sundry Crs./payments toward expenses | 600 | 20 |
| Partners' Capital | 200 | 40 | Partners' Withdrawal | 100 | 10 |
| Loan from bank recd. | 200 | 0 | Repayment of loan | 50 | 0 |
| Adv. From Cust. recd. | 100 | 0 | Adv. To suppliers | 50 | 0 |
| | 1200 | 80 | | 800 | 30 |

ANSWER: Tax audit u/s 44AB(a): Applicable.

Reason: Cash receipts are exceeding 5% though cash payments are not exceeding 5% (both should be below 5%).

Sec. 44AD (Presumptive Taxation for Business)

Checkpoints for applicability of Sec.44AD:

Provisions not applicable to



- Person carrying on **profession** referred u/s. 44AA(1).
- Person earning **commission or brokerage** income.
- Person carrying on any **agency** business.

Eligible Assessee



- **Resident Individual / HUF / Partnership Firm.**
- Not claimed deduction u/s. 10A, 10AA, 10B, 10BA or deduction under any provisions of Chapter VIA under the heading "C".

Eligible Business



- Total TO / GR less than or equal to **Rs. 2 crores.**
- **Any business** other than business of plying, hiring or leasing goods carriages referred to in Sec. 44AE.

Can a Non Resident opt for Sec. 44AD ?

Answer: No

Sec. 44AD (4) & (5) (Presumptive Taxation for Business):

- Sec. 44AD(4) applies only if assessee has opted for presumptive taxation in **earlier year**.
- Once opted, follow for 5 subsequent AYs.
- If opted out before 5 years, cannot avail the benefit of Sec. 44AD for 5 subsequent AYs.
- Consequences of opting out (*If Income > Max amt. not chargeable to Tax*):
 - Tax Audit applicable u/s. 44AB(e)
 - Maintain BOA u/s. 44AA.

Can a Partnership firm opting for Sec. 44AD claim separate deduction of Remuneration or Interest ?

Answer: No

How to calculate 8% or 6% NP under Sec. 44AD?

Sec. 44ADA (Presumptive Taxation for Profession):

- Individual/Partnership (HUF/LLP/Company - not allowed).
 - Applicable to professionals specified u/s. 44AA whose Gross Receipts does not exceed Rs. 50 lacs.
 - Profits to be offered: 50% of the Gross Receipts.
 - If Profits are less than Deemed Profits & Income is greater than the max amt. not chargeable to Tax,
 - Tax Audit applicable u/s. 44AB(d).
 - Maintain BOA u/s. 44AA.
- ❑ Can a Partnership firm opting for Sec. 44ADA claim separate deduction of Remuneration or Interest ? **Answer: No**

Sec. 44AE (Presumptive Taxation for plying, hiring, leasing goods carriages):

Eligibility

An assessee who owns not more than 10 goods carriages at any time during the P.Y.

Profits to be offered

- Heavy Goods Vehicle (>12 ton): Rs.1,000 per ton (Gross weight/unladen weight) per vehicle for every month or part of it.
- Other than HGV: Rs.7,500 p.m. or part of it.

Other Provisions

- If not offering profits as per specified limits (irrespective of the Income):
- Maintain BOA u/s. 44AA(2)
 - Tax Audit applicable u/s. 44AB(c)

Whether in case of Partnership firm, Interest & Salary be allowed as a deduction from presumptive income?

Answer: Yes

Interplay between Presumptive Tax Provisions

| Particulars | 44AD | 44ADA | 44AE |
|--|---|----------------------------------|-------------------------|
| Assessee | Individual / Partnership/HUF | Individual/ Partnership | Any Assessee |
| Partners' remuneration and interest on capital | Not allowed (Omitted in Finance Act 2016) | Not allowed | Allowed |
| Residential status | Resident | Resident | Resident / Non Resident |
| Tax Audit Applicable if | Total income > Non taxable limit | Total income > Non taxable limit | No such condition |

- ❑ Can a company opt for presumptive taxation? **Answer: Yes, u/s 44AE**
- ❑ Whether Non resident is allowed to opt for Sec. 44AE ?

Case Studies

Year

Case Study - 1

Applicability of Tax Audit ??

01

1st year of Business
Turnover Rs. 75 lacs, NP offered 8%

44AD: Applicable
44AB: Not applicable.

02

Turnover Rs. 90 lacs, Net profit offered @ 5%

44AD: Not applicable
44AB: Applicable (u/s. 44AB(e) since provisions of Sec. 44AD(4) & (5) are invoked.

03

Turnover Rs. 80 lacs, Net Profit @ 5%
Rs. 4 lacs

44AD: Not applicable
44AB: Applicable [44AD(4) - 5 years time period]. Income above Non taxable limit.

04

Turnover Rs. 40 lacs, Net Profit @ 5%
(Rs. 2 lacs)

44AB: Not applicable since income is below Rs. 2.5 lacs.

Case Study

Case Study - 2

01 A Radiologist (Doctor)
T/O 45 lacs, Net Profit 15 lacs

44ADA: Not applicable (Below 50%).
44AB: Applicable u/s. 44AB(d) since NP offered is less than 50%.

Case Study - 3

02 Assessee is doctor by profession
Professional Receipts - Rs. 40 lacs,
NP offered in profession - 25 lacs
Engaged in medicine sale - Rs. 80 lacs
Can he opt for Sec. 44AD ?

- Since profit from profession is more than 50%, he can opt for Sec. 44ADA.
- He **cannot** opt for Sec. 44AD since he is a professional (as per Sec. 44AD(6)).
- No Tax Audit since Business T/o less than 1 cr. [44AB(a)].

Case Study

Case Study - 4

A Truck owner having 2 trucks, each having 15 ton gross weight, offering Rs. 600 per ton per month.

Total Income = $600 \times 15 \times 2 \times 12 = \text{Rs. } 2,16,000/-$

Is he liable for Tax Audit ??

44AE: Not Applicable

44AB: Applicable

Profits offered are less than the prescribed limits u/s. 44AE.

Benefit of below Rs.2.5 lakh non-taxable limits not applicable in 44AE.

Case Study - 5

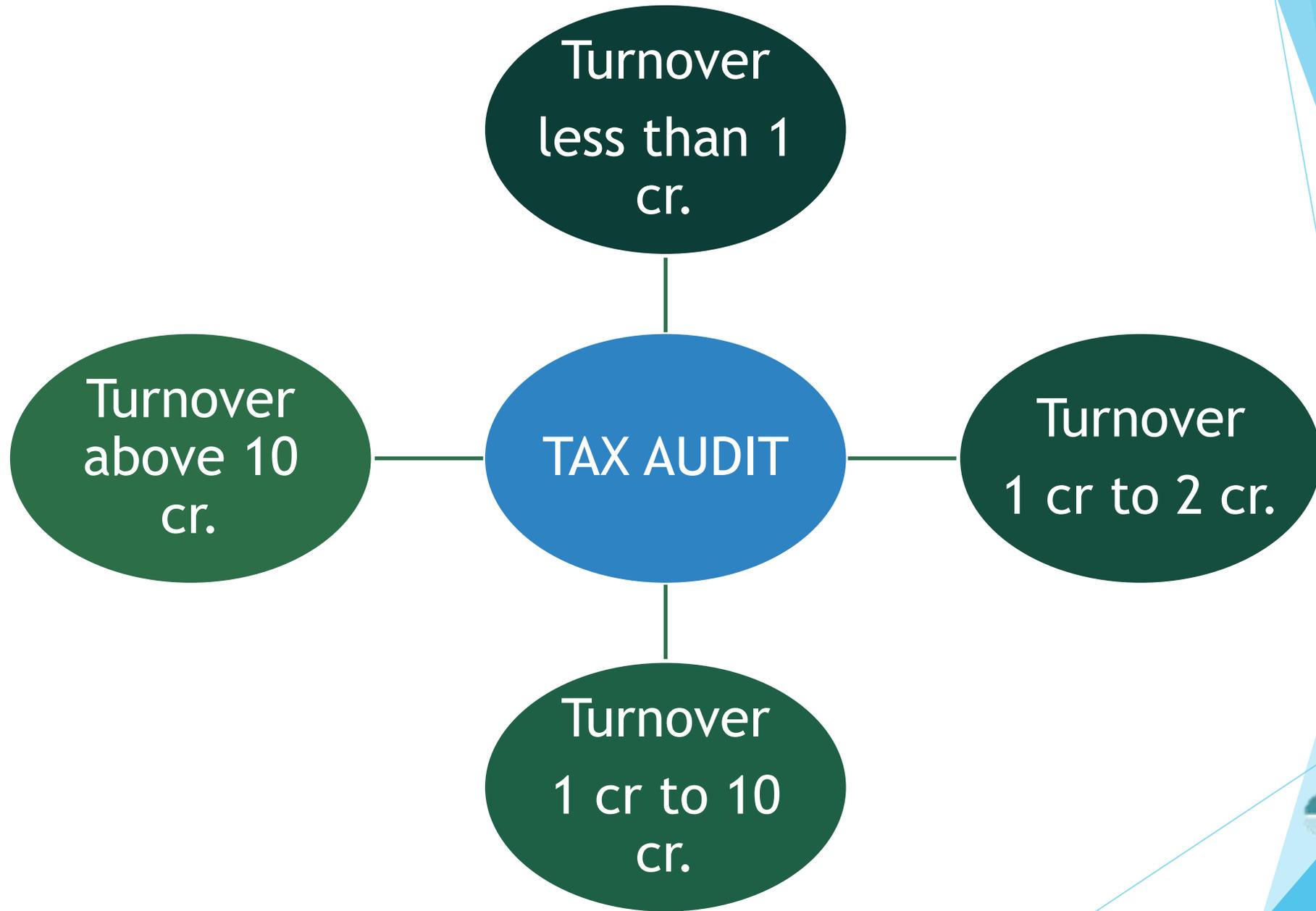
Truck Operator having 10 trucks.

Also engaged in sale of motor spare parts - T/O Rs. 1.90 crores.

Can he opt for Sec. 44AD for spare part sales?

44AE: Applicable, for truck operations.

44AD: Applicable, for motor spare parts business because any business is eligible u/s. 44AD except **business** referred to u/s. 44AE.



IMPORTANT ISSUES ON CLAUSES IN FORM 3CD

CAG report no. 32 of 2014

Executive Summary Issues / Mistakes in TAR

| Issue | No. of cases | Revenue Losses (in Crores) |
|---|--------------|----------------------------|
| Failure to give correct information reg. Depreciation | 66 | 458 |
| Incorrect information reg. Brought Forward Losses | 46 | 558 |
| Personal/Capital expd. allowed - Tax Auditor failed to report | 42 | 478 |
| Wrong certification reg. Exemption/Deduction | 74 | 260 |
| Incorrect information in TAR | 132 | 1038 |
| Total | 360 | 2792 |

Clause 8: Relevant clause of Sec. 44AB under which audit is conducted

- (a) • Business: Total **sales, turnover or gross receipts** > Rs. 1 Crores/Rs.5 Crores.
- (b) • Profession: Gross receipts > Rs. 50 Lakhs
- (c) • Business: Income lower than deemed profits/gains u/s 44AE, 44BB, 44BBB.
- (d) • Profession: Income lower than deemed profits/gains u/s 44ADA and income exceeds maximum amount not chargeable to tax.
- (e) • not chargeable to tax. Business: 44AD(4) is applicable and income exceeds maximum amount

Builder receives Advance of Rs.15 Crores, whether Tax Audit is applicable?

TA: Applicable, DCIT vs Gopal Krishna Builders (2004), ITAT 92 TTJ Lucknow.

Clause 8a: Whether opted for taxation under section 115BA/115BAA/115BAB/115BAC/115BAD?

| Section | 115BA | 115BAA | 115BAB | 115BAC | 115BAD |
|--------------------|---------------------------|------------------|---|---|--|
| Assessee | Domestic Company | Domestic Company | Domestic Company | Individual or HUF (Resident as well as Non-resident). | Co-operative society resident in India |
| Registered from | on or after 01.03.2016 | NA | On or after 01.10.2019 | NA | NA |
| Nature of business | Manufacture or production | NA | Manufacturing or production on or before 31.03.2023 | NA | NA |
| Applicable from | AY 2017-18 | AY 2020-21 | AY 2020-21 | AY 2021-22 | AY 2021-22 |
| Tax Rate | 25% | 22% | 15% | As per new slab rates | 22% |

Clause 8A: Taxation under Section 115BA, 115BAA, 115BAB, 115BAC & 115BAD

- ❖ Certain Specified Deductions - (u/s 32, 33 & 35) not available.
- ❖ MAT credit not available.
- ❖ Depreciation
 - Basic depreciation - mandatory to claim at the rates prescribed.
 - Additional depreciation [Sec. 32(1)(iia)]- not available.
- ❖ Set off of certain losses - not available in respect of deduction denied.
- ❖ Option once exercised is irrevocable.
- ❖ Deductions Available
 - 115BA & 115BAD : 80JJAA (New Employment).
 - 115 BAA & 115 BAB: 80JJAA & 80M (Inter-Corp. Dividend).
 - 115BAC: 80JJA & 80CCD(2)(NPS).

CLAUSE 32a: Set Off Of Business & Depreciation Losses u/s 115BAA/115BAC/115BAD

Total c/f Loss
(Business + Depreciation)

100

Business Loss c/f

60

Depreciation c/f

40

Other Business Loss

45

Loss from Inadmissible Deductions u/s 33,35, Chapter VIA

15

Additional Depreciation

10

Normal Depreciation

30

Reported in *New Clause 32(5)*

Set off or c/f not Allowed

Can Add to WDV (as of 01/04/2019) New Clause 18ca & 18cb

Clause 11a: Books of account are **prescribed** under section 44AA

- Sec. 44AA prescribes books to be maintained for specified and notified professionals only.
- Books to be maintained are provided in **Rule 6F**.

Clause 11b: List of books of account **maintained** and its address

- **List** of books maintained and **location** of the same must be mentioned.
- **Books** for eg. Cash book, General ledger, journal, etc.

Clause 11c: List of books of account and nature of relevant documents **examined**

- Mention the Books (Eg. Cash book, General ledger, journal, etc.)
AND
- Relevant documents* (Eg. Invoices, Bills, Documents of Title, GST Returns, etc.) examined.
* includes electronic data / documents [Sec. 2(22AA)]

Clause 13: Method of Accounting

| | | |
|-----|---|--|
| (a) | Method of accounting employed: | <ul style="list-style-type: none">• Cash or mercantile must be mentioned.• Accrual or mercantile mandatory for companies. |
| (b) | Any change, compared to previous year: | Yes/No |
| (c) | If yes, effect on Profit and Loss account: | Increase in profit and decrease in profit. |
| (d) | Whether any adjustment required to P&L for complying with ICDS [Sec 145(2)] | Yes/No |
| (e) | If adjustment required, give details: | The increase in profit, decrease in profit and net effect is mentioned as per each ICDS. Refer example in Slide 28. |

ICDS AND ITS APPLICABILITY

- ICDS was introduced in AY 2017-18.
- Applicability:
 - All assesses except Individual and HUF's not under Tax Audit.
 - Applicable only to Mercantile System of accounting.
 - Applicable to Income Computation and not for Maintenance of Books of accounts.
 - Not applicable for computation of MAT.
 - Not applicable for Presumptive Taxation.

Example: Effect on profit due to variations in ICDS and AS (Clause 13e)

| Issue | ICDS | AS |
|---|---|--|
| Govt. Grants related to Depreciable Fixed Assets | <p><u>ICDS - VII</u></p> <ul style="list-style-type: none"> •To be reduced from WDV of the Asset. •No Option to treat as deferred income. | <p><u>AS -12</u></p> <p>Can be either:</p> <ul style="list-style-type: none"> •Reduced from cost or WDV of concerned Asset. <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> •Treated as deferred income over the useful life. |
| Exchange Difference arising from foreign currency Borrowing to the extent regarded as interest cost | <p><u>ICDS IX</u></p> <p>NOT treated as borrowing cost (to be accounted for as Exchange fluctuation).</p> | <p><u>AS-16</u></p> <p>Treated as Borrowing cost. <i>(to be capitalized)</i></p> |

Clause 13(f): Disclosure as per ICDS

| Sr. no. | ICDS | Name of ICDS | AS |
|---------|-----------|--|-------|
| 1 | ICDS-I | Accounting Policies | AS-1 |
| 2 | ICDS-II | Valuation of Inventories | AS-2 |
| 3 | ICDS-III | Construction Contracts | AS-7 |
| 4 | ICDS-IV | Revenue Recognition | AS-9 |
| 5 | ICDS-V | Tangible Fixed Assets | AS-10 |
| 6 | ICDS-VII | Government Grants | AS-12 |
| 7 | ICDS-IX | Borrowing Cost | AS-16 |
| 8 | ICDS-X | Provisions, Contingent liabilities & Contingent Assets | AS-29 |
| 9 | ICDS-VI | Changes in Foreign Exchange Rates | AS-11 |
| 10 | ICDS-VIII | Securities | AS-13 |

Note: No disclosure prescribed for ICDS VI and VIII.

Clause 17: Land/ building/ both is transferred during P.Y. for a consideration less than value adopted or assessed or assessable by any authority of a State Government referred to in Sec. 43CA or 50C:

❖ Reporting Requirement:

| Details of Property | Address | Consideration received / accrued | Value adopted or assessed or assessable | Whether provisions of second proviso to sub-section (1) of section 43CA or fourth proviso to clause (x) of sub-section (2) of section 56 applicable? [Yes/No] |
|---------------------|---------|----------------------------------|---|---|
| XX | XX | XX | | XX |

Case Study: Applicability of Sec. 50C

| Example | Nature of asset | Consideration received (Rs. Crs) | Stamp Duty Valuation (Rs. Crs) | Taxability |
|---------|-------------------|----------------------------------|--------------------------------|--|
| 1 | Land | 2.20 | 2.40 | Full Value of Consi. will be Rs. 2.20 Crs only since the SDV is less than Rs. 2.42 Crs (110% of consideration). |
| 2 | Commercial office | 2.20 | 2.45 | Full Value of Consi. will be Rs. 2.45 Crs since SDV is more than Rs. 2.42 Crs (110% of consideration). |
| 3 | Residential flat | 1.50 | 1.90 | Full Value of Consi. will be Rs.1.90 Crs only since the SDV is more than Rs.1.80 Crs (120% of consideration) (for first time allotment of the residential unit between 12.11.2020 - 30.06.2021 upto Rs.2 Crs). |

Clause 20(b): Details of Contributions received from Employees for various funds ref to in sec 36(1)(va)

- ❖ Sec 2(24) (x) : Income Includes Employees Contribution to PF, ESI or other employee Welfare Funds.
- ❖ Sec. 36 (1) (va) : Deduction for Contributions received from Employees (PF/ESI etc.) is allowable only if that are paid on or before due dates specified in respective statutes.
- ❖ Expl to Sec 36(1)(va): For the removal of doubts, it is hereby clarified that the provisions of section 43B shall not apply and shall be deemed never to have been applied for the purposes of determining the "due date" under this clause;

Whether Employees contributions not paid before due date specified u/s 139(1) is allowable u/s 43B?

REPORTING REQUIREMENT

| Sr.No | Nature of Fund | Sum received from employees | Due date for payment | The actual amount paid | The actual date of payment to concerned authorities |
|-------|----------------|-----------------------------|----------------------|------------------------|---|
| | | | | | |

CLAUSE 21 (b): AMOUNTS INADMISSIBLE U/S 40(a)

40(a)(i)

Interest, Royalty, FTS or other similar sums
i. Payable outside India
ii. Payable in India (to a Non resident/Foreign Co.)

Tax has not been deducted
Or
After deduction, tax has not been paid [on/bef due date u/s 139 (1)]

**100% of Amount Paid
DISALLOWED**

40(a)(ia)

Payments to Residents
(Eg :Commission, Salary, Professional Fees, FTS, contractual Expenses)

Tax has not been deducted
Or
After deduction, tax has not been paid (on/bef due date u/s 139 (1))

**30% of Amount Paid
DISALLOWED**

Is disallowance applicable when assessee is not treated as assessee in default [Sec 200(1) first proviso]?

Clause 29A: Transfer of capital asset - Advance forfeited 56(2)(ix)

What is Taxable?

- Advance received in the course of transfer of capital asset.
- If such sum is forfeited.

Comments:

- Only if **forfeited**, else no reporting.
- Entitled to forfeit but has not forfeited, suitable MRL.
- Relates to **Capital Asset**. If forfeiture relates to stock-in-trade(sec.28) report incl.16(a) if not credited to P&L.
- Forfeiture w/o legal right, no action from other party report by way of a note.
- 29A reporting relates to 'Income from other sources. Since Tax Audit is of business, Auditor's responsibility is only to the extent entries for IFOS **recorded in books**.

CLAUSE 21 (c) Amounts debited to profit and loss account being, interest, salary, bonus, commission or remuneration inadmissible under section 40(b)/40(ba)

INTEREST & REMUNERATION TO PARTNERS

❖ Interest:

- i. Authorised by Deed
- ii. Not to exceed 12%

❖ Remuneration:

- i. Only to working Partners
- ii. Authorised and in accordance with Deed.
- iii. Should be up to the limits (as per slabs).

| Books Profits | Limits |
|---------------|--|
| First 3 Lakhs | Rs. 1,50,000 or 90 % whichever is higher |
| Balance | 60% |

Issues:

- i. Interplay between Sec 40(b) and sec 36(1)(iii): [Interest on borrowed capital].
- ii. Applicability of Sec 40b to Commission paid to proprietary concern of the partner.
- iii. Remuneration to the partner in a firm opting for Sec 44AD.

Clause 29B: Whether any amount is to be included as income chargeable under the head IFOS as referred u/s. 56(2)(x)

Sum of Money recd. in aggregate exceeding Rs.50,000

- ❖ The limit of Rs.50,000 is aggregate limit and not per person.
- ❖ Receipts exceeding Rs.50,000 fully taxable, no basic non taxable limit.
- Exempted Gifts:
 - From relatives
 - On marriage
 - Will / Inheritance, etc.

Any immovable property recd., SDV exceeding Rs.50,000

Without consideration

Fully taxable

Inadequate Consideration

Diff. taxable FMV -Consideration

Other than immovable property recd. , FMV exceeding Rs. 50,000

- Shares & Securities
- Paintings
- Jewellery
- Sculptures
- Archaeological Collections
- Any work of art
- Drawings
- Bullion

CLAUSE 31 (ba,bb,bc,bd): Particulars of each receipt & payment of an amount exceeding limit specified in 269ST

1. No Person shall receive an amount of Rs.2 Lakhs or more otherwise than by way of **account payee Cheque or DD**
 - a. in aggregate from **a person in a day.**
 - b. in respect of a **single transaction.**
 - c. in respect of a transaction relating to one **event/occasion** from **a person.**
2. Applies to both Capital and Revenue Receipts (Cash sales, Cash Gifts, Donations etc.)
3. Exempt gifts u/s. 56(2)(x) are liable for penalty for violation of 269ST.
4. Cash withdrawals of Rs.2 lacs or more from bank? (*CBDT Notification No.SO2065E dated 03.07.2017*).
5. Transactions covered by 269SS not covered here.

REPORTING

31(ba)

Receipts by Cash in excess of Limits

31(bb)

Receipts by Bearer Cheques & DD in excess of Limits

31(bc)

Payments by Cash in excess of Limits

31(bd)

Payments by Bearer Cheques & DD in excess of Limits

Clause 31 (ba, bb, bc, bd): Particulars of each receipt in an amount exceeding the limit specified in section 269ST

Analysis by Practical Examples for reporting purpose:

1. From a person in a day:

Assessee: Jeweler, Invoice raised: Rs. 3 lacs.

Amount Recd:

| Receipt No. | Date | Amount Recd. in Cash |
|-------------|------------|----------------------|
| 021 | 10.02.2021 | 1,00,000 |
| 023 | 10.02.2021 | 1,00,000 |
| 026 | 10.02.2021 | 1,00,000 |
| | Total | 3,00,000 |

Applicability ?
Yes

Clause 31 (ba, bb, bc bd): Particulars of each receipt in an amount exceeding the limit specified in section 269ST

Analysis by Practical Examples for reporting purpose:

2. In respect of a Single transaction:

Assessee: Jeweller , Invoice raised: Rs. 3 lacs.

Amount Recd:

| Receipt No. | Date | Amount Recd. in Cash |
|-------------|--------------|----------------------|
| 021 | 10.02.2021 | 1,00,000 |
| 032 | 12.02.2021 | 1,00,000 |
| 049 | 15.02.2021 | 1,00,000 |
| | Total | 3,00,000 |

**Applicability ?
Yes**

Clause 31 (ba, bb, bc bd): Particulars of each receipt in an amount exceeding the limit specified in section 269ST

Analysis by Practical Examples for reporting purpose:

3. In respect of transactions relating to one event or occasion from a person: XYZ Ltd. arranged an annual function for employees of a company in Feb' 2020. 3 invoices were raised.

| Particulars | Amount Recd. in cash |
|---------------|----------------------|
| Hall Charges | 1,50,000 |
| Food | 1,30,000 |
| Decoration | 1,2,0000 |
| Total: | 4,00,000 |

Applicability ?
Yes

Clause 31 (ba, bb, bc bd): Particulars of each receipt in an amount exceeding the limit specified in section 269ST

Interplay of Sec. 269ST with Sec. 56(2)(x):

A receives cash gift of Rs.1,90,000/- from relatives during his son's marriage.

56(2)(x): Taxable, as the gift is not on account of own marriage.
269ST: Not applicable.

B receives cash gifts from relatives aggregating to Rs.10 Lakh. Each gift was less than Rs. 2 Lakh, applicability of Sec. 269ST? Are provisions of Sec. 56(2)(x) applicable?

56(2)(x): Exempt.
269ST: Not violated as each gift is below Rs.2 lakh.

C receives cash gifts from relatives aggregating to Rs.10 Lakh. Out of them, he received Rs.3 lakhs from one person, applicability of Sec. 269ST? Are provisions of Sec. 56(2)(x) applicable?

56(2)(x): Exempt.
269ST: Violated as one gift is above Rs.2 lakh. Penalty applicable of sum equal to amount of receipt i.e., Rs.3 lakhs.

Common mistakes in Form 3CD

| Sr. no. | Cl. No. | Sec. | Common Mistakes |
|---------|---------------|---------------------|---|
| 1 | 3CB/3CD | | 'Qualification para does not contain 'Assessee's Responsibility' & 'Auditors Responsibility' as per SA 700. |
| 2 | 3CA/CB | | Opinion in Form 3CA /CB be given subject to observations & qualifications |
| 3 | 3CA/ CB/CD | | -Details required are not fully disclosed -Reporting is done for some ICDS & others left blank -Write 'Nil' if no adjustments are required. |
| 4 | 3CA/3CB | | Selection of form 3CA or 3CB, particularly in the case of new business started on or after 1st Jan of FY |
| 5 | 2 | | Address not matching with address on Annual report to MCA. Does not contain address of entities for assessment purpose. |
| 6 | 8 | Proviso to Sec 44AB | 1. Cash transactions limit calculation for provision to see 44AB(a) 2. Mistake made: 5% limit. |

Common mistakes in Form 3CD

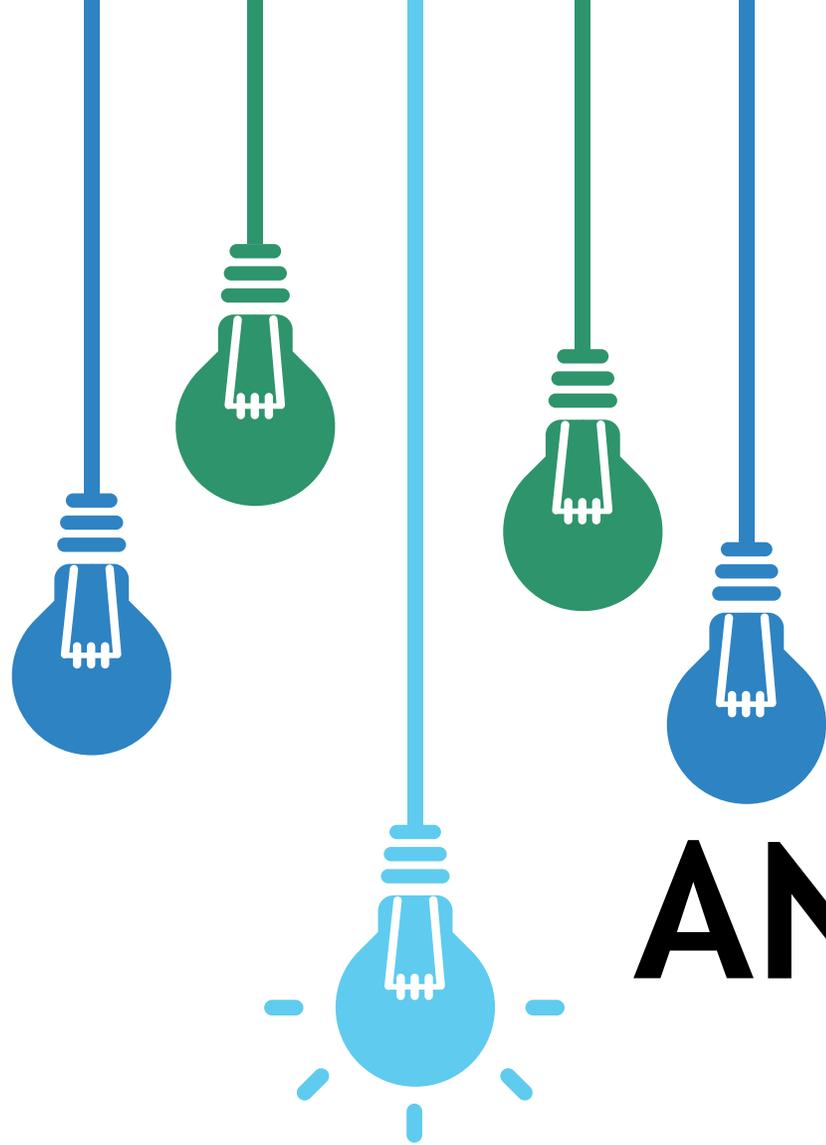
| Sr. no. | Cl. No. | Sec. | Common Mistakes |
|---------|---------|------------------------------|---|
| 7 | 8 | 44AB(3) read with 44AD | Interpretation that if NP % below 8% or 6% & audit is compulsory |
| 8 | 8 | 44AD(4) | In a case where 44AD(4) is applicable, Tax audit is conducted even when the total income is below non-taxable limit |
| 9 | 11(a) | 44AA | <u>Books of A/C:</u> List of books given as 'prescribed books' for business (it is prescribed only for specified / Notified professions. No books prescribed for business.) |
| 10 | 11(c) | 2(22AA) | <u>Nature of relevant documents examined:</u> Such as invoices, bills, clients certificate, confirmations, GST returns, documents of title, Internal Audit reports not provided. |
| 11 | 14(b) | | <u>Deviation from 145A:</u> Method of accounting, valuation of purchase, sales and inventory and adjustment, thereof. |

Common mistakes in Form 3CD

| Sr. no. | Cl. No. | Sec. | Common Mistakes |
|---------|---------|---------|--|
| 12 | 18 | Sec. 32 | Depreciation: Depreciation schedule is uploaded in ITR differs from depreciation schedule, physically signed. TAR is attached to B/S while filling ITR. |
| 13 | 22 | | <u>MSME interest:</u> Interest (MSME) disclosed in F.S. but not disclosed in TAR. |
| 14 | 34(a) | | <u>Details of TDS & TCS (CH.XVIIB or CH.XVIIBB)</u> Total expense like salary, Rent, prof. Fees, Commission, does not match with figures in F.S. |
| 15 | 40 | | <u>Accounting Ratios:</u> Ratio of 'Material cons' / 'Finished goods produced'. Details are not given. |

*Given the risk of an Audit,
‘PAYING STRICT ATTENTION TO THE RULES’
is the only smart decision you can make.*

- Kathy Burlison



ANY QUESTIONS?



THANK YOU!



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