

DO'S AND DONT'S OF TAX AUDIT



**Income
Tax
Audit**



www.taxguru.in

**Tax
Design**

By CA. Satish Shanbhag
9322216993

shanbhag.co@gmail.com

Assisted by: CA Ria Gupta

CA

S. V. SHANBHAG & CO.
CHARTERED ACCOUNTANTS

ISSUES RELATING TO ICAI - CODE OF ETHICS:

❖ COMMUNICATION WITH PREVIOUS AUDITOR:

- Communication with Previous Auditor by
 - Registered A.D,
 - in Person,
 - through e-mail *registered with ICAI or last known official e-mail.*
- Non-payment of undisputed Audit fees.
- Disqualification of Auditor (*Expl to Sec. 288 of I.T. Act*)

Councils General Guidelines 2008:

A. ISSUES RELATING TO ELIGIBILITY TO BE APPOINTED AS TAX AUDITOR:

- a. Internal Auditor (Proprietor/Partner).
- b. CA in full time or part time employment.
- c. Part time COP holder.
- d. A Person can not be appointed as Tax Auditor of a Firm or Company in which his **relatives** hold not less than 20% interest/voting power.



B. CEILING ON TAX AUDIT:

- ❖ A CA not to accept more than 60 Tax Audits in a FY.
- ❖ Limit reckoned qua CA:
 - Proprietor can perform 60 Audits
 - Each partner of the Firm can perform 60 Audits
 - Audits signed as Proprietor and also as partner not to exceed 60 per member
- ❖ Inclusions in limit of 60 Audits:
 - Joint Audits
- ❖ Exclusions in limit of 60 Audits:
 - Audit of HO & branch treated as one audit
 - Audit of more than one branch of a company be treated as one Audit
 - Audits u/s. 44AD, 44ADA 44AE

Time Limit for filing Tax Audit Report:

'Specified Date' (Explanation ii to Sec. 44AB):

Date one month prior to the due date u/s. 139(1)

'Due Date' u/s. 139(1):

- Corporate Assessee
- Non- Corporate Assessee (Tax audit or audit under any other law)
- Partner of firm under Tax audit or audit under any other law
- Assessee requiring to submit report u/s. 92E

**30th
November**

Auto-population of Tax Audit details in the ITR.



TAX AUDIT PROVISIONS & REPORTING

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



Sec. 44AB : Tax Audit Provisions

a

Business : Exceeds Rs. 1 crore / 5 crore

b

Profession : Exceeds Rs. 50 lakhs

c

Business : u/s. 44AE, 44BB, 44BBB
Income < 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 chargeable to tax



Sec. 44AB : Tax Audit Provisions

❖ Clause 44AB(a) - (Amendment w.e.f. AY 2020-21)

➤ Limit of Rs. 5 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*

Case Study-1

❖ Calculation of 5% Cash Receipts & 5% Cash Payments:

A. Calculation of Total Receipts:

Particulars	Cash	Cheque	Total
Cash Sales	50	-	50
Receipts from Debtors	10	840	850
Loan Receipts	-	100	100
Total	60	940	1000

Total Receipts - 1,000

5% of Total Receipts = 50 (5% of 1,000)

Actual Cash receipts - 60

AND

B. Calculation of Total Payments:

Particulars	Cash	Cheque	Total
Cash /Cheque Payments	40	260	300
Payment to Creditors	-	540	540
Loan payments	-	60	60
Total	40	860	900

Total Payments - 900

5% of Total Payments = 45 (5% of 900)

Actual Cash payments - 40

**Applicability
of Tax Audit ?**

NOTE:

- Cash Deposits & withdrawals from bank, inter-bank transfer entries not to be considered.
- **Is Capital introduced by a proprietor be considered in Total Receipts ?**

YES CA

S. V. SHANBHAG & CO.
CHARTERED ACCOUNTANTS

Interplay with Presumptive Taxation

Sec. 44AD (Presumptive Taxation for Business)

❖ Checkpoints for applicability of Sec.44AD:

Provisions not applicable

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

Eligible Assessee

- 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**

Interplay with Presumptive Taxation

- ❖ 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 A.Y.
 - **If opted out** before 5 years, cannot avail the benefit of Sec. 44AD for 5 subsequent A.Y.

 - 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 ?*

Interplay with Presumptive Taxation

❖ Sec. 44ADA (Presumptive Taxation for **Profession**):

- 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



Interplay with Presumptive Taxation

❖ 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 (HGV): 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, Int & Salary be allowed as a deduction from presumptive income?

Time to think.....

Year

Case Study-2

Applicability of Tax Audit ??

01 1st year of Business
Turnover Rs. 75 lacs - opted for Sec. 44AD

Tax Audit not applicable, since opted for Sec. 44AD.

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

Tax Audit 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

Tax Audit applicable [44AD(4) - 5 years time period].

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

Tax Audit not applicable since income is below Rs. 2.5 lacs

Time to think.....

Case Study-3

01

A Radiologist (Dr.)
T/O 45 lacs, Net Profit 15 lacs
(Less than 50% because of high Int & Dep.)

Tax Audit applicable u/s.
44AB(d) since NP offered is less
than 50%.

Case Study-4

02

Assessee is doctor by profession
Engaged in medicine sale - Rs. 80 lacs
Professional Receipts - Rs. 40 lacs ,
NP offered in profession - 25 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 T/o less than 1 cr. [44AB(a)].

Time to think.....

Case Study-5

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 ??

U/s. 44AE, if profits offered are less than the prescribed limits, **TAX AUDIT is APPLICABLE** even if the income is below the non-taxable limits.

Case Study-6

Truck Operator having 10 trucks engaged in hiring of goods carriage

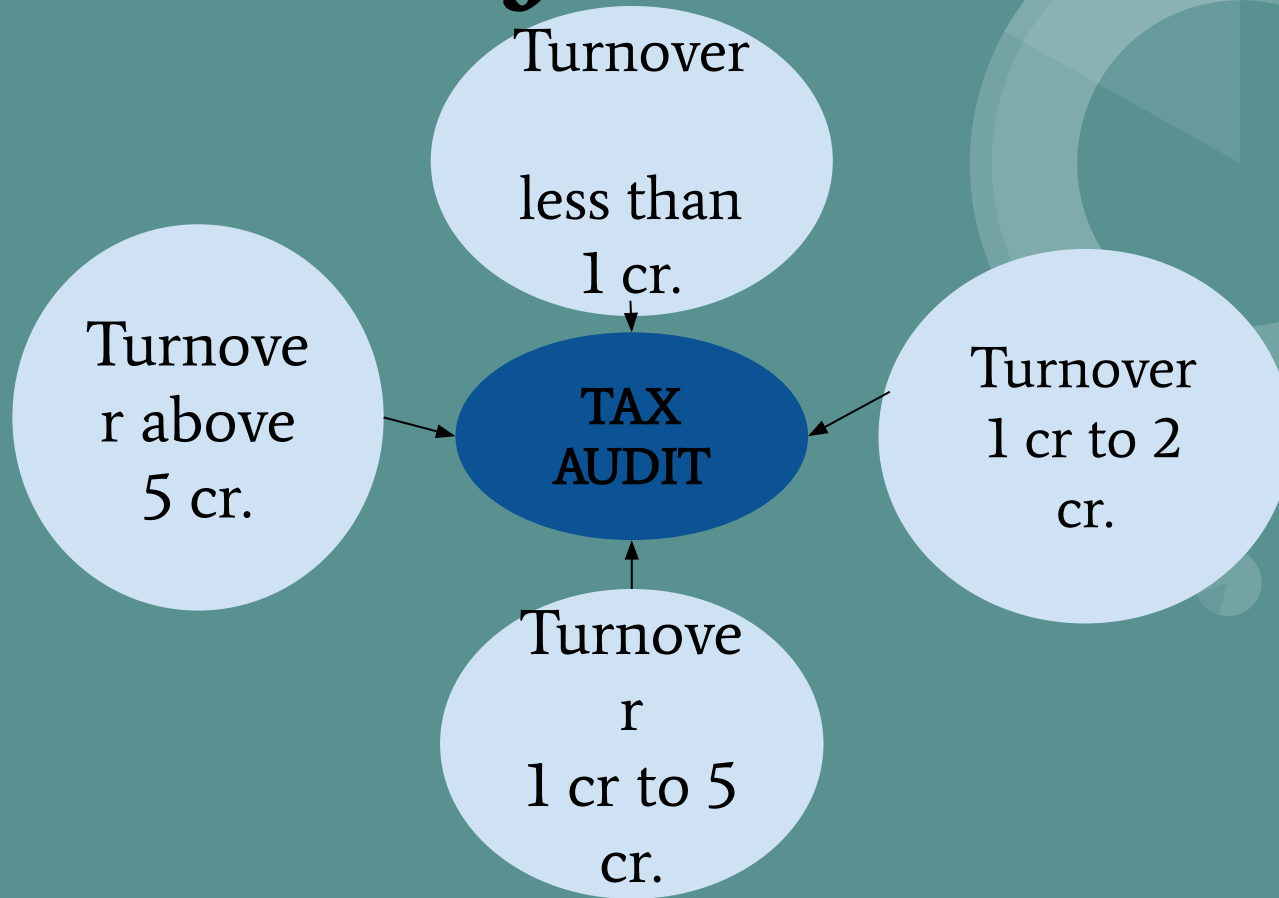
Also engaged in sale of motor spare parts - T/O
Rs. 1.90 crores

Can he opt for Sec. 44AD ?

- For truck operations- 44AE
- For motor spare parts business- 44AD

(Any business is eligible u/s. 44AD except business referred to u/s. 44AE)

Overview of Audit Provisions



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.



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

FORM 3CA

What are we reporting?

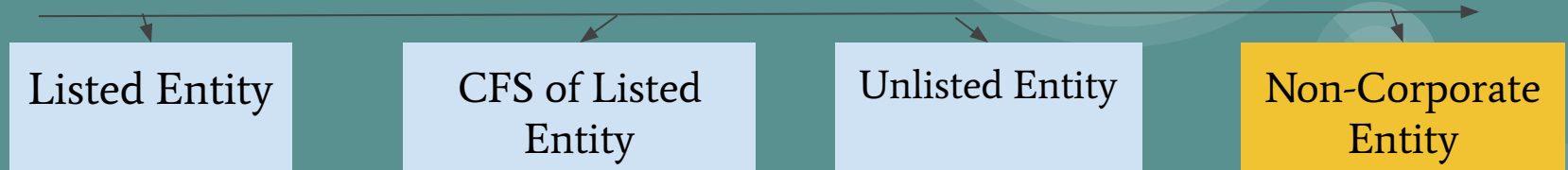
- Balance Sheet, P&L and Audit Report annexed.
- Form 3CD annexed.
- Particulars given in Form 3CD are **True and Correct**.
- Observations & Qualifications

FORM 3CB

- Expressing opinion on **True & Fair view of FS.**
- Form 3CD annexed.
- Particulars given in Form 3CD are **True and Correct**.
- Observations & Qualifications

Applicability of SA 700 (Revised) : Forming an Opinion and Reporting on Financial Statements

- SA 700 deals with the auditor's responsibility to form an **opinion on the Financial Statements (FS)**.
- It also deals with the **form and content of the auditor's report (for following)** issued as a result of audit of FS.



- For filing Form 3CB (*for Non-Corporate entities*) which gives True & Fair view of FS, we need to give Audit Report prepared as per AS-700.
- Framework for FS: Previous years figures be given for Non-Corporate assesseees also

Whether Form 3CA or Form 3CB ??



- Newly formed Company from 01.01.2020
- Turnover 6 cr
- Period ending on 31.03.2020
- Companies Act permit 1st year Financials for 15 months

- Whether ITR can be filed for 15 months ending on 31.03.2021 ??
- Which form to be filed- 3CA or 3CB?

- Companies Act: 1st year financials allowed for 15 months ending on 31.3.2021.
- IT Act: It is only for 3 months ending on 31.3.2020 (*Sec. 3: Previous year*)
- **Form 3CB be used.**- Since 3 months Accounts do not require Audit under Co. Act.

Consequences on failure to submit Tax Audit Report:

Penalty u/s. 271B

Lower of :

0.5% of Turnover

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. **Eg- incorrect reporting
on ICDS.**



CLAUSES OF TAX AUDIT REPORT (FORM 3CD)

Total clauses	44
Less: Clauses deferred by CBDT till 31.03.2021	(2)
Cl. 30C on GAAR	
Cl.44 on GST	
Applicable Clauses	40



abcaus.in

Clause 8: Indicate the relevant clause of Sec. 44AB under which the Audit has been conducted

Examples:

Situation	Particulars	Relevant Clause
1.	Assessee engaged in business of hiring, leasing or plying goods carriages offers profits less than deemed profits reqd u/s. 44AE.	44AB(c)
2.	Assessee engaged in profession, gets his BOA audited since profits offered less than 50%.	44AB(d)
3.	Assessee engaged in business opted for Sec. 44AD but opted out of it in subsequent years and got his BOA audited.	44AB(e)

Clause 15: Particulars of Capital Asset converted into Stock-in-Trade

TAX IMPLICATIONS

Reporting Requirement:

- Description of Capital Asset
- Date of Acquisition
- Cost of Acquisition
- Amt at which converted into Stock-in-Trade

Capital Gains

- CG on conversion taxable in the year of trf of Stock-in-Trade
- $CG = FMV \text{ as on date of conversion} - \text{Cost of Acquisition}$

Business Income

Sales
Consideration
(-)
FMV

Clause 17: Where any 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
XX	XX	XX	XX

❖ **Case Study-1: Applicability of Sec. 50C ?**

Sr. No	Consideration recd	Stamp Duty Valuation	Remark
1.	2.25 cr	2.30 cr	Full Value of Consi. will be Rs. 2.25cr only since the permissible difference between the two values can be 5% w.e.f. 01.04.2019.

Time to think.....

Whether Employee's contribution to PF/ESI/SA Fund etc. can be claimed as allowable deduction if paid on or before the due date of filing ROI u/s. 139(1) ?

- ❖ Sec. 2(24)(x) defines employee's contribution as **income** of the employer.
- ❖ 36(1)(va): Deduction of employee's contribution is allowable subject to remittance on or before the due date specified in the respective acts.
- ❖ Reporting under Clause 20(b): Details of contributions received from employees for various funds as referred to in section 36(1)(va).
- ❖ Requirement u/s. 43B: *any sum payable by an assessee as an employer by way of contribution to Provident Fund.....*

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

Time to think.....

Case Study-1:

- ❖ Mr. A received cash gift of Rs. 1,00,000 on the occasion of marriage of his son. Taxability of cash gift in the hands of Mr. A ?
 - Taxable in the hands of Mr. A since gift should be received on the occasion of own marriage and not of any other person.

Case Study-2:

- ❖ Mr. B received Motor car worth Rs. 10 lacs as a gift from his friend. Taxability of gifts in the hands of Mr. B?
 - Not taxable in the hands of Mr. B since motor car is not covered under movable property as specified u/s. 56(2)(x).

Clause 18: Particulars of Depreciation allowable as per the IT Act, 1961

Change in Dep. rates on certain Block of Assets w.e.f. 23.08.2019

Sr. No	Block of Assets	Rate of Dep %	
		Old	New
1.	<i>Motor cars, other than those used in a business of running them on hire, acquired on or after the 23.08.2019 but before 01.04.2020 and is put to use before 01.04.2020.</i>	15%	30%
2.	<i>Motor buses, motor lorries and motor taxis used in a business of running them on hire, acquired on or after 23.08.2019 but before 01.04.2020 and is put to use before 01.04.2020.</i>	30%	45%

Clause 18: Particulars of Depreciation allowable as per the IT Act, 1961

Case Study:

Assessee acquired a fixed asset and incurred transport expenses of Rs. 35,000 in cash (permissible limit as per Sec. 40A(3)). This amt is capitalized but can it be taken as actual cost u/s. 43 ???

❖ Sec. 43: Actual Cost of Asset:

- Assessee incurs any expenditure for acquisition of any asset or part thereof
- payment is made to a person in a day in cash in excess of Rs. 10,000
- such expenditure shall be ignored for the purposes of determination of actual cost.
- No Depreciation be allowed on such cost.

Clause 29A. (a) Whether any amount is to be included as income chargeable under the head 'IFOS' as referred to in Sec. 56(2)(ix):

- Advance money forfeited taxable in the years of cancellation of Agreement
- Verification and Reporting:
 - Verify transactions of Capital Asset where advance is lying but Capital Asset not transferred.
 - Verify whether assessee has legal or contractual right to forfeit.
 - No Reporting under this clause in respect of-
 - Trade advances
 - Letter of forfeiture sent but contested by the other party.

Clause 31 (a,b): Particulars of each loan/deposit/specified sum in Sec.269SS taken or accepted during P.Y.



REPORTING

- Separate Reporting for (a) Loan or Deposit and (b) for specified sum.
- **Meaning of Specified Sum:** *means any sum of money receivable, whether as advance or otherwise, in relation to transfer of an immovable property, whether or not the transfer takes place.*

Clause 31 (c,d,e): Particulars of each repayment of loan/deposit/ specified advance in Sec.269T

Question

Report

31(c)

Whether repayment was by Chq/
DD / ECS ?

YES / NO
For each party with PAN &
Address

31(d)

If the amt. Repaid was received
in Cash ?

If applicable, give details
party wise (Name, PAN,
Address)

31(e)

If the amt. Repaid was received
by bearer cheque / DD ?

If applicable, give details
party wise (Name, PAN,
Address)

PENAL PROVISIONS:

- Contravention of Sec. 269SS: Penalty u/s. 271D @ 100% of loan / deposit/ specified sum accepted
- Contravention of Sec. 269T: Penalty u/s. 271E @ 100% of loan / deposit/ specified sum repaid



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

- ❖ **Meaning of default mode-** (Cash/ Cheque or DD not being A/c payee)
- ❖ Sec. applies to both Revenue and Capital Receipts (Cash sales, Gifts, Donations, etc)
- ❖ Exempt gifts u/s. 56(2)(x) are liable for penalty for violation of 269ST.
- ❖ Cash withdrawals of Rs.2 lacs or more from bank? (*CBDT Notification No. SO2065E dated 03.07.2017*)

❖ **Penal Provisions:**

Contravention of Sec. 269ST: Penalty u/s. 271DA @ 100% of loan / deposit / specified sum accepted.

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: Jeweller , Invoice raised: Rs. 4 lacs

Amount Recd:

Receipt No.	Date	Amount Recd. in Cash
021	10.02.2020	1,00,000
023	10.02.2020	1,00,000
026	10.02.2020	1,00,000
027	10.02.2020	1,00,000

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. 4 lacs

Amount Recd:

Receipt No.	Date	Amount Recd. in Cash
021	10.02.2020	1,00,000
032	12.02.2020	1,00,000
049	15.02.2020	1,00,000
061	16.02.2020	1,00,000

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 gets married to B, receives cash gifts from relatives worth Rs. 10 Lakh. Each person gifted cash less than Rs. 2 Lakh, applicability of Sec. 269ST? Are provisions of Sec. 56(2)(x) applicable?
 - Since the cash gifts are received on the occasion of marriage, they are not taxable u/s. 56(2)(x).
 - Sec. 269ST mentions ‘in respect of transactions relating to one event or occasion from a person, i.e. the restriction is on per person per event / occasion. 269ST will not be applicable, cash gifts received from a single person is less than Rs. 2 lacs. No penalty.
- ❖ Suppose, in the above example, cash gifts from certain persons are Rs. 2 lacs or more?
 - Penalty can be levied, cash gifts worth Rs. 2 Lakh or more can not be received from a person relating to one occasion.

Clause 33: Section-wise details of deductions admissible under Chapter VIA or Chapter III (Section 10A, Section 10AA)

Sec. 80G

- Donations made in cash exceeding Rs. 2,000 not allowed as deduction.
- Donation limited to 10% of the Gross Total Income

Sec. 80D

Medical Premium paid in cash not allowed as deduction except towards preventive health check-up upto Rs. 5,000



ICDS

Income Computation and
Disclosure Standards

❖ Applicability of ICDS:

➤ 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.

Clause 13(d): Whether adjustment is required to be made for complying with Provisions of ICDS notified u/s. 145(2)

Clause 13(e): If yes, give details of adjustment.

ICDS	Name of ICDS	Increase in profits	Decrease in profits	Net effect
ICDS-I	Accounting Policies			
ICDS-II	Valuation of Inventories			
ICDS-III	Construction Contracts			
ICDS-IV	Revenue Recognition			
ICDS-V	Tangible Fixed Assets			
ICDS-VI	Changes in Foreign Exchange Rates			
ICDS-VII	Government Grants			
ICDS-VIII	Securities			
ICDS-IX	Borrowing Cost			
ICDS-X	Provisions, Contingent liabilities & Contingent Assets			

Thank You!
Any questions?



In case of any queries
Please contact us at: 9322216993, 27889955/56/57

Email: satish@svshanbhag.com

Website: www.svshanbhag.com

