

Key Changes in Tax Audit Report

03/10/2025

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What is the objective of Tax Audit ?

Examination or review of accounts of any business or profession carried out by taxpayers



To ensure correctness of implementation and proper compliance of tax provisions envisaged under the Act

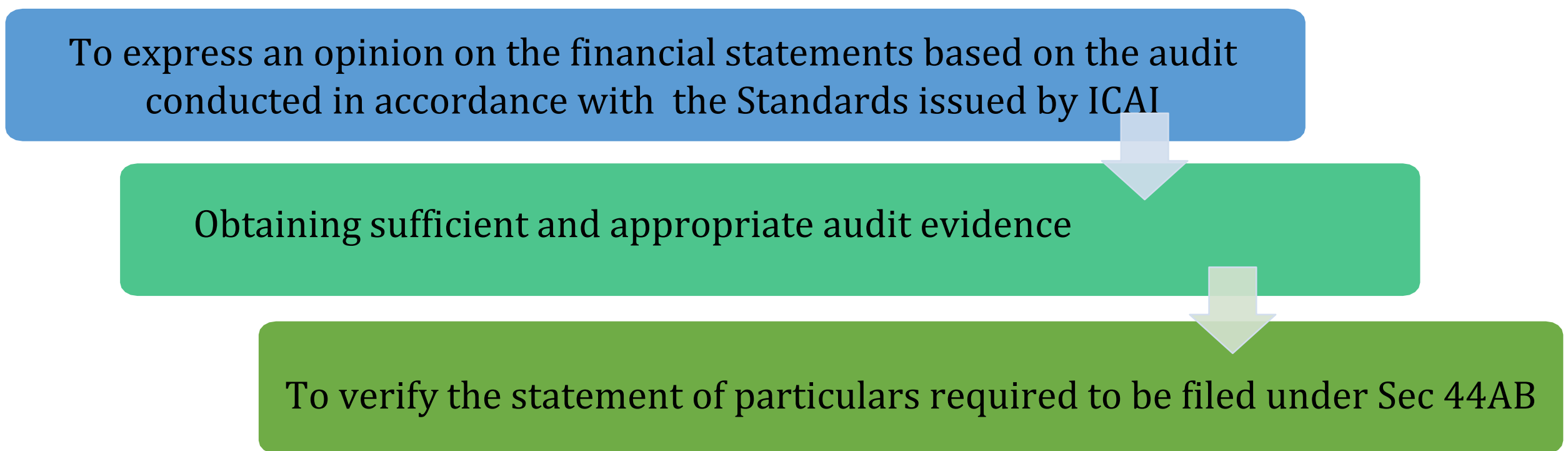


Enables the tax authority for verification and assessments



Our Responsibility

To express an opinion on the financial statements based on the audit conducted in accordance with the Standards issued by ICAI



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graph TD; A[To express an opinion on the financial statements based on the audit conducted in accordance with the Standards issued by ICAI] --> B[Obtaining sufficient and appropriate audit evidence]; B --> C[To verify the statement of particulars required to be filed under Sec 44AB];
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Obtaining sufficient and appropriate audit evidence

To verify the statement of particulars required to be filed under Sec 44AB

Clarification regarding authority attached to the documents Issued by the Institute

Uptill 18th August 2023

- ☐ Guidance to members on matters which may arise in the course of their professional work and on which they may desire assistance in resolving issues which may pose difficulty.
- ☐ A member should ordinarily follow recommendations in a guidance note relating to an auditing matter except where he is satisfied that in the circumstances of the case, it may not be necessary to do so.

WEF 19th August 2023

- ☐ Assist professional accountants in implementing the Engagement Standards and the Standards on Quality Control issued under the authority of the Council.
- ☐ A professional accountant who does not consider and apply the guidance included in a relevant Guidance Note should take reasonable and adequate care in performing the alternate procedures adopted by him to deal with the objectives and basic principles set out in the Guidance Note. In such situations, a professional accountant should also document the rationale in performing the alternate procedures

Guidance Note – Importance

➤ Virtual Soft Systems Ltd., Supreme Court 404 ITR 409

*Prior to critically examining the case, it would be appropriate to have an understanding and significance of the Guidance Note issued by the ICAI. **The ICAI is an expert body, created by the Parliament under the Chartered Accountants Act, 1949.** The ICAI's publication on the subject indicates that the Guidance Note on Accounting for Leases was issued by it for the first time in 1988, which was later on revised in 1995. **The Guidance Note reflects the best practices adopted by the accountants throughout the world. The ICAI is a recognized body vested with the authority to recommend accounting standards for ultimate prescription by the Central Government in consultation with the National Advisory Committee of Accounting Standards for the presentation of true and fair financial statements.***

➤ Punjab Stainless Steel Industries, Punjab and Haryana High court, 364 ITR 144 held as under

*So as to be more accurate about the word "Turnover", one can refer either to dictionaries or to material, which are published by bodies of Accountants. The Institute of Chartered Accountants of India (hereinafter referred to as the "ICAI") has published some material under the head "Guidance Note on Tax Audit under Section 44AB of the Income Tax Act". **The said material has been published so as to guide the members of the ICAI. In our opinion, when a recognized Body of Accountants, after due deliberation and consideration publishes certain materials for its members, one can rely upon the same....'***

Guidance Note – Importance

➤ J.K. Industries Ltd., Supreme court, 297 ITR 176

Accounting Standard is a policy statement or document framed by Institute. Accounting Standards establishes rules relating to recognition, measurement and disclosures thereby ensuring that all enterprises that follow them are comparable and that their financial statements are true, fair and transparent.

Accounting Standards are an attempt to overcome some of these deficiencies of Accountancy. Accounting Standards involve codification of fundamental accounting rules, rules which explain and standardize the application of the fundamental rules to a variety of uncertain situations.

The object of Accounting Standards is, therefore, to standardize and to narrow down the options. The object of Accounting Standards is to evolve methods by which 'accounting income' is determined.

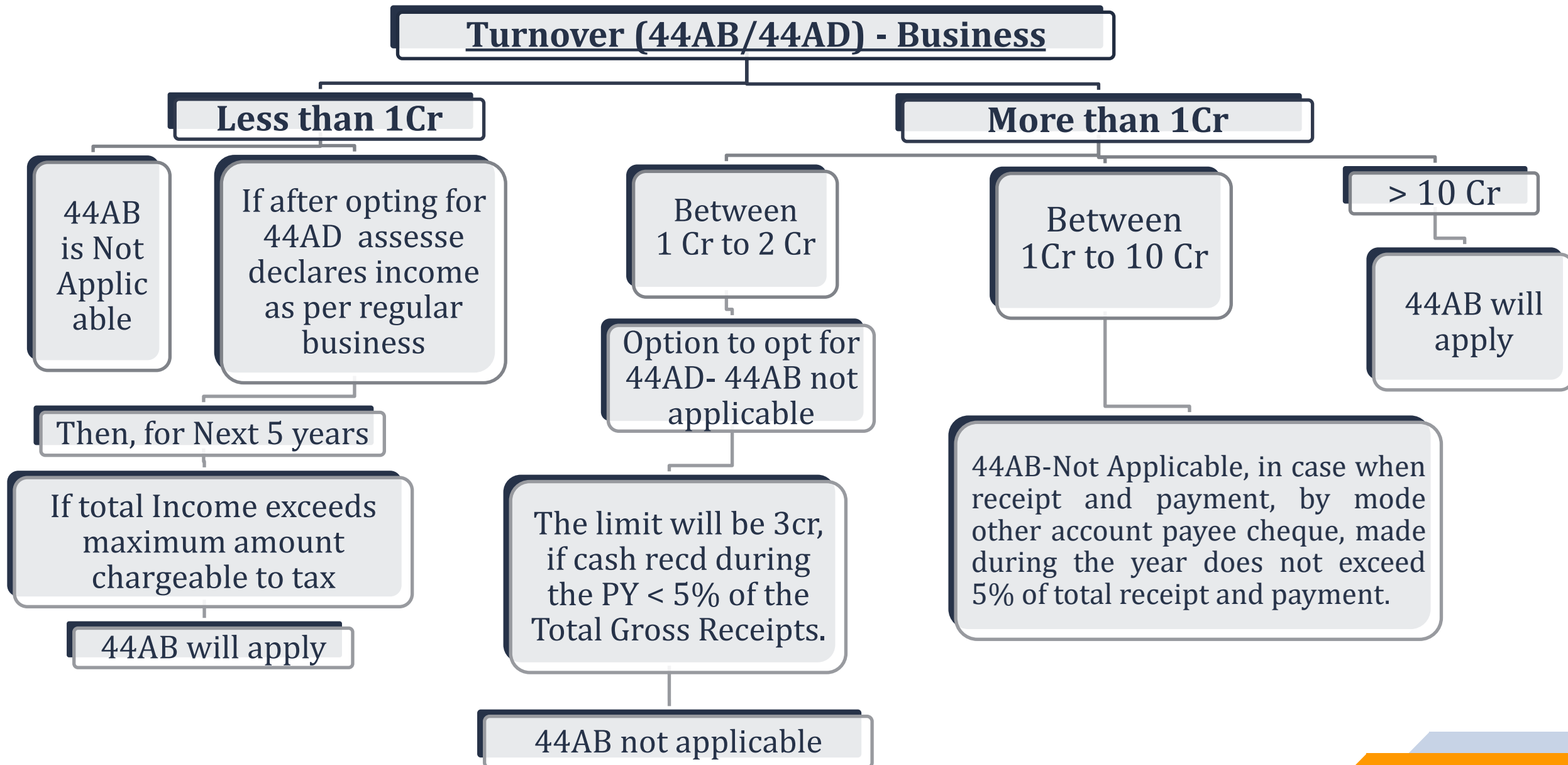
The object behind the Accounting Standards is to evolve methods by which accounting income is determined, made more transparent and leave less and less room for subjective selection of methods and provide for more attention to the quality of estimates used in arriving at accounting income.

The main object sought to be achieved by Accounting Standards which is now made mandatory is to see that accounting income is adopted as taxable income and not merely as the basis from which taxable income is to be computed

Applicability of Audit

Turnover	Applicability
Turnover > 10 Cr	Assessee is required to get his accounts audited as per section 44AB
1 Cr <= Turnover <= 10 Cr	Not Applicable in case when receipt and payment, <u>by mode other than account payee cheques</u> , during the year does not exceed 5% of total receipt and payment including amount received for sales, turnover or gross receipt during PY and amount paid for expenditure during PY, as the case may be
Turnover <=1 Cr	Will be applicable only if assessee once declared income as per 44AD and wants to declare income less than 8%/6% of turnover and a period of 5 years has not elapsed from when he first opted for 44AD and his income exceeds max. amount not chargeable to tax.

Audit Applicability 44AB VS 44AD - Business



Audit Applicability 44AB VS 44ADA- Profession

Gross Receipts (GR) (44AB/44ADA) - Professionals

Less than 50 lakhs

44ADA - Presumption

But if income declared, lower than 50% **“and”** total Income exceeds maximum amount not chargeable to tax

44AB will apply

More than 50 lakhs

$50L < GR < 75L$

44ADA – Applicable

If cash recd during the PY $< 5\%$ of the Total Gross Receipts.

44AB Not applicable

$GR > 75L$

44AB will apply

Verification of Form 3CB-3CD

Earlier (till FY 2023-24):

- Only Digital Signature Certificate (DSC) allowed for verification.

Now (w.e.f. FY 2024-25):

- Individuals & HUFs can verify using:
 - ***Electronic Verification Code (EVC)*** or
 - DSC
- Chartered Accountants (CAs): Still required to use DSC (mandatory).

Ceiling on No. of TAR accepted and signed by CA

Particulars	For A.Y.2025-26	From 1.4.2026
1. Maximum No. of tax audit assignments which a CA in practice can accept & sign?	60 (to be reckoned relating an AY)	60 in a FY
2. Maximum No. of tax audit assignments which a CA Firm in practice can accept?	60 TAR per partner in firm, relating to an AY	60 TAR per partner in the firm in a FY
3. Can an CA who is also a partner in a firm, sign > 60 TAR in a FY by utilising the maximum permissible limit available to a firm based on No. of partners?	Yes, he can sign > 60 TAR relating to an AY by utilizing the max. limit permissible for firm.	No, he cannot sign > 60 TAR in the FY.
4. Are audits under clauses (c), (d) and (e) of section 44AB in respect of persons covered under section 44AE, 44ADA and 44AD included in the ceiling limit?	No, the audits under these clauses are not included in the ceiling limit.	No, the audits under these clauses are not included in the ceiling limit of 60 in a FY.

Note – In the case of revision of TAR, the revised TAR shall not be taken into account for the purpose of reckoning the said limit of 60.

Issues – Audit applicability

Q – Is tax audit applicable when income is exempt u/s 10 or 11?

A - Section 44AB does not stipulate exemption from tax audit in case of exempt income-

- Trust carrying on business enjoying exemptions under sections 10(21), 10(23A), 10(23B), 10(23BB), 10(23C) or section 11
- Co-operative society carrying on business enjoying deduction under section 80P
- Such institutions shall be governed by Section 44AB if their turnover / gross receipts in business exceeds the prescribed limit

Issues – Tax Audit Applicability

Q - Whether the provisions of tax audit applicable to business under section 11(4A)?

A - There is nothing in the statute to suggest that Tax Audit under section 44AB shall apply to business under section 11(4A) (Incidental Business).

Sections 11 to 13 are independent of the five heads of income. As long as the registration under section 12AA/12AB is in force the income cannot be computed under the five heads of income.

Tax Audit is a specific requirement of the assessee having income under the head "Business and Profession".

Sales/ Turnover/ Gross receipt Includes / Excludes

Items to be included in turnover:	Items to be excluded from turnover:
<ul style="list-style-type: none"><input type="checkbox"/> Sale of scrap<input type="checkbox"/> Sale of by-product<input type="checkbox"/> Sales proceeds of shares, securities, debentures etc. held as stock-in-trade<input type="checkbox"/> Special rebate which is in the nature of commission on sales<input type="checkbox"/> Receipt in kind	<ul style="list-style-type: none"><input type="checkbox"/> Ancillary charges - packing, freight, forwarding, interest etc.<input type="checkbox"/> Cash discount allowed in cash memo/sales invoice/ Trade discount / Price adjustments<input type="checkbox"/> VAT and other indirect taxes collected/ collectible<input type="checkbox"/> Sale proceeds of fixed assets/ assets held as investments<input type="checkbox"/> Write back of provisions

Sales / Turnover/ Gross receipt Includes / Excludes

Items to be included in turnover:	Items to be excluded from turnover:
<ul style="list-style-type: none"><input type="checkbox"/> Cash incentives / duty drawback<input type="checkbox"/> Advances received from customers and forfeited<input type="checkbox"/> Exchange differences on export sales<input type="checkbox"/> Liquidated damages<input type="checkbox"/> Interest / rental income – if business income	<ul style="list-style-type: none"><input type="checkbox"/> Dividend on shares except for assessee dealing in shares<input type="checkbox"/> Interest / Rental income unless assessable as business income<input type="checkbox"/> Capital receipts<input type="checkbox"/> Advance forfeited in respect of fixed assets<input type="checkbox"/> Write back of amounts no longer payable to creditors

Calculation of Turnover / Gross Receipts for Shares and Securities

➤ Speculative Transactions

The aggregate of both positive and negative differences is to be considered as the turnover on a gross basis.

➤ Derivatives, Futures and Options

- i. The total of favourable and unfavourable differences shall be taken as turnover
- ii. **Premium received on sale of options is also to be included in turnover (in which case the profit if included in premium not be reincluded)**
- iii. Any reverse trades entered, the difference thereon, should also form part of the turnover.
- iv. Open position at the end of the FY (i.e. trades which are not squared off during the same FY), **the turnover from the said transaction should be considered in the FY when the transaction has been actually squared off.**

➤ Delivery based transactions

Total value of sales is turnover, whether intended or not.

➤ In case of a clearing & forwarding agent

Reimbursement of customs duty & other charges collected by an agent not part of turnover.

Sale Turnover – Case Laws

➤ **Sanjay Marotrao Modak [2023] 147 taxmann.com 221 (Mumbai - Trib.)**

Where assessee was trading in future and option transactions and Assessing Officer determined turnover from said transactions at Rs. 30.94 crores and levied penalty under section 271B on ground that assessee's turnover was beyond limit prescribed under section 44AB and he failed to submit audit report, since as per ICAI 'Guidance Note on Tax Audit assessee's case did not fall under section 44AB, impugned penalty deserved to be deleted.

➤ **Ghai Construction, 184 Taxman 52, Bom HC**

Tax audit is only in respect of business carried on by the assessee and not in respect of his income from other sources

Calculation of Turnover / Gross Receipts for Partners

Turnover, In Case of Partner of Partnership firm?

- ☐ Share of Profit- Not includible, Para 5.14(x) of ICAI GN 2025 – share of profit exempt U/s.10(2A) so not “gross receipts of business”
- ☐ Interest and Remuneration from firm not Includible in gross receipts- (Perizad Zorabian Irani – [2022] 139 taxmann.com 164 (Bombay))
- ☐ Section 44ADA is a special provision for computing profits and gains of profession on presumptive basis uses the expression 'Total gross receipts'. As already seen in Section 44AD, the words used are 'total turnover' or 'gross receipts' and it presupposes that it pertains to a sales turnover and no other meaning can be given to the said words and if done so, the purpose of introducing Section 44AD would stand defeated. (Anadkumar, Madras High Court , **278 Taxman 342**)

Allowability in hands of Partners

- ❑ Supreme Court in **Ramlik Kothari** had held that expenditure incurred by the partner for earning income from partnership firm is an allowable expenditure.
- ❑ The Bangalore Tribunal in **Suresh Sreeram**, has ruled that that Interest on funds borrowed for investment as capital in a partnership firm are deductible expenditure. In absence of earning any interest income on capital from the firm is no bar to claim the interest paid on borrowings for the purpose of contributing capital to the firm by the assessee as deductible expenditure. In such an event there would be loss under the head “PGBP”, sub- head “interest, salary from the partnership firm” and the assessee is entitled to set off the said loss against other income under the same head “PGBP”.

Allowability in hands of Partners

❑ S. Meyyappan (1969) 73 ITR 20 , Madras High Court

Section 37(1) of the Income-tax Act, 1961 [Corresponding to section 10(2)(xv) of the Indian Income-tax Act, 1922] – Business expenditure – Allowability of – **Assessee, having half share in a firm, engaged one employee to look after his interest, and assist him in work he was expected to execute under terms of partnership – Assessee claimed allowance of payments made to said employee from his share of profit from firm – Whether since expenditure had been incurred by assessee for purpose of earning his half share of profits in firm, Tribunal was justified in allowing same while computing assessee share income from firm.**

Turnover- Advance received for services

Q – Advance received for services to be rendered, to be included in gross receipts?

A - ICAI's view Para 5.16 of GN 2025:

Such receipts are liabilities and not a part of gross receipts until services are rendered

However, ITAT (Lucknow) in case of Gopal Krishan Builders [2004] 91 ITD 124 upheld a contrary view and held that the scope of the word “gross receipts” is quite wide to include advances also.

FAQ's on Applicability of Tax Audit

- In case of salaried employee who has done huge transactions of intraday speculation trading but net gain for the year is a few thousands rupees?
- In case of multiple businesses, how should aggregate turnover be computed for deciding tax audit applicability?
As per para 5.18 of GN 2025- "the results of all business activities should be clubbed together. In other words, the aggregate sales, turnover and/or gross receipts of all businesses carried on by an assessee would be taken into consideration in determining whether the prescribed limit (Presently Rs. 1 crore and Rs. 10 crore for certain specified cases) as laid down in section 44AB has been exceeded or not."
- In case of LLP - Cash withdrawals done by Designated Partner for its personal use to be considered for Cash Payment 5% limit for Tax Audit applicability?
- If futures and options turnover is between 3 to 10 crores and having loss. - whether tax audit applicable or not?

Tax Audit report can be Revised

Q - Whether a tax audit report can be revised?

A -

- ☐ A Tax Audit Report which has not been approved by Assessee can be revised.
- ☐ However, after it has been approved by the Assessee, it should not be revised.
- ☐ However, there is no restriction by the utility, as of now, to upload revised JSON File.
- ☐ So, we should take due care, so that correct data is uploaded in the first instance itself.

Guidance Note on Tax Audit- Para 15.12 under Section 44AB issued by the ICAI provides that the audit report under section 44AB should not normally be revised. However, sometimes a member may be required to revise his tax audit report on grounds such as:

- (a) Revision of accounts of a company after its adoption in annual general meeting.
- (b) Change of law e.g., retrospective amendment.
- (c) Change in interpretation, e.g., CBDT Circular, Judgments, etc.

Thus, a tax audit report once filed can be revised on the above-mentioned grounds.

Q. Whether Tax Audit report need to be revised if payment of Expenditures u/s 43B & TDS u/s 40(a) are paid after filing of Tax audit report but before due date of filing Income Tax Return u/s 139(1)?

A. Rule 6G(3) provides that the tax audit report furnished may be revised by accountant and furnish it before the end of the relevant AY for which the report pertains if there is payment after furnishing of report which necessitates recalculation of disallowance u/s 40 or sec. 43B.

2022 GN stated, “However, it is not mandatory to revise tax audit report in the circumstances mentioned in Rule 6G(3). If the tax audit report is revised, while revising the tax audit report, prescriptions in ‘Guidance Note on Revision of the Audit Report’ should be considered.” The GN 2023 as well as 2025 omits the above provisions

Therefore, in the circumstances covered by Rule 6G(3), issuing a revised tax audit report is mandatory, and a revised tax audit report is to be issued regardless of prescriptions of the ‘Guidance Note on Revision of the Audit Report.’

Changes – Clause 12 : Profits and gains assessable on presumptive basis

A new Clause 44BBC has been added under Clause (12) of Form 3CD w.e.f 1-4-2025

As per section 44BBC, in case of an assessee being a non resident engaged in the business of operation of cruise ship, a sum equal to 20% of the aggregate amount shall be deemed to be the profits and gains of such business for the purpose of taxation.

Calculation of Aggregate Amount:-

The aggregate amount shall include the following-

- a) The amount paid or payable to the assessee on account of carriage of passengers.
- b) The amount received or deemed to be received by the assessee on account of carriage of passengers.

Changes – Clause 12 : Profits and gains assessable on presumptive basis

A new Clause 44BBD has been added under Clause (12) of Form 3CD w.e.f 1-4-2026

As per section 44BBD, in case of an assessee being a non resident engaged in the business of providing services or technology to a resident company, for the purpose of setting up or operating an electronics manufacturing facility in India, a sum equal to 25% of the aggregate amount shall be deemed to be the profits and gains of such business for the purpose of taxation.

Calculation of Aggregate Amount:-

The aggregate amount shall include the following-

- a) The amount paid or payable to the assessee on account of providing services or technology.
- b) The amount received or deemed to be received by the assessee on account of providing services or technology.

Changes - Clause 19 : Omission of Specific Deductions

Several deduction-related provisions have been removed from Clause (19) of Form 3CD. The omitted sections include:

- ☐ Section 32AC: Section 32AC provided a 15% deduction on investments exceeding INR 100 crore in new plant and machinery for eligible companies.
- ☐ Section 32AD - This section granted a 15% additional deduction to companies setting up manufacturing units in notified backward areas of Andhra Pradesh, Bihar, Telangana, and West Bengal.
- ☐ Section 35AC - This section allows assessee to claim a 100% deduction on donations made to government-approved projects.
- ☐ Section 35CCB - This section allowed deductions for expenditures on government-approved agro-based research programs.

Clause 21 (a) Additional disclosure us 37(1)(iv)

In Clause 21(a), an additional reporting row has been inserted:

“Expenditure incurred to settle proceedings initiated in relation to contravention under such law as notified by the Central Government in the Official Gazette in this behalf.”

Assessee must now disclose expenses incurred for settlements related to contraventions of laws as notified by the government.

Change - Clause 22: Micro, Small & Medium Enterprises

❑ Prior to amendment, clause 22 required **reporting of amount of interest inadmissible** under section 23 of the Micro, Small and Medium Enterprises Development Act, 2006 or any other amount not allowable under clause (h) of section 43B of the Income-tax Act, 1961.

❑ **Substituted clause 22 w.e.f 1.4.25 -**

- (i) Amount of interest inadmissible under section 23 of the MSMED Act, 2006; or*
- (ii) Total amount required to be paid to a Micro or Small Enterprise, as referred to in s. 15 of the MSMED Act, during the previous year;*
- (iii) Of amount referred to in (ii) above, amount-*
 - (a) paid up to time given u/s 15 of the MSMED Act;*
 - (b) not paid up to time given u/s 15 of the MSMED Act and inadmissible for the previous year.*

Changes - Clause 22: Micro, Small & Medium Enterprises

Amendments in section 43B of the Income-tax Act, 1961

Cl. (h) has been inserted in section 43B w.e.f. 1-4-2024 (applicable from A.Y. 2024-25).

“43B. Notwithstanding anything contained in any other provision of this Act, a deduction otherwise allowable under this Act in respect of-

Following clause (h) shall be inserted after clause (g) of section 43B by the Finance Act, 2023, w.e.f. 1-4-2024:

(h) any sum payable by the assessee to a micro or small enterprise beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006),

shall be allowed (irrespective of the previous year in which the liability to pay such sum was incurred by the assessee according to the method of accounting regularly employed by him) only in computing the income referred to in section 28 of that previous year in which such sum is actually paid by him:

Changes - Clause 22: Micro, Small & Medium Enterprises

Proviso to Sec 43B

***Provided** that nothing contained in this section [except the provisions of clause(h)] shall apply in relation to any sum which is actually paid by the assessee on or before the due date applicable in his case for furnishing the return of income under sub-section (1) of section 139 in respect of the previous year in which the liability to pay such sum was incurred as aforesaid and the evidence of such payment is furnished by the assessee along with such return.*

Explanation 4 to section 43B-

(e) "micro enterprise" shall have the meaning assigned to it in clause (h) of section 2 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006);

(g) "small enterprise" shall have the meaning assigned to it in clause (m) of section 2 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006).

Changes - Clause 22: Micro, Small & Medium Enterprises

GN 2025-

Clause 22, full disclosure is required to be made as required in sub-clauses (ii)&(iii)-

(A) Cl. 22(ii) requires reporting of “total amount required to be paid to a micro or small enterprise, as referred to in section 15 of the MSMED Act, during the previous year”, the total amount required to be paid during the year needs to be stated even if the said amount has been actually paid during the year.

(B) Under Clause 22(iii) –

(a) Under (a), all payments out of that included under 22(ii), which have been settled within the time limit laid down in Section 15 of MSMED Act need to be stated.

(b) Under (b), only such amounts which will attract disallowance under Section 43B(h) should be reported. This will include only amounts which –

(i) have been claimed as a deduction during the year excluding sums specified in Para 42.25 (Eg. Interest in Cl. 22(i); Payment in violation to S.40A(3), etc)

(ii) are outstanding on the last date of the previous year; and

(iii) have not been paid within the time limit specified in Section 15 of the MSMED Act

Changes - Clause 22: Micro, Small & Medium Enterprises

"Section 15 of MSMED Act - Liability of buyer to make payment

Where any **supplier** supplies any goods or renders any services to any **buyer**, the buyer shall make payment therefor on or before the date agreed upon between him and the supplier in writing or, where there is no agreement in this behalf, before the **appointed day**:

Provided that in no case the period agreed upon between the supplier and the buyer in writing shall exceed forty-five days from the day of acceptance or the day of deemed acceptance.

Changes - Clause 22: Micro, Small & Medium Enterprises

Definition in the MSMED Act, 2006

<u>Section of the MSMED Act, 2006</u>	<u>Term</u>	<u>Definition</u>
2(d)	Buyer	Whoever buys any goods or receives any services from a supplier for consideration
2(n)	Supplier	A micro or small enterprise, which has filed a memorandum with the authority referred to in sub-section (1) of section 8, and includes,-
		(i) the National Small Industries Corporation, being a company, registered under the Companies Act, 1956
		(ii) the Small Industries Development Corporation of a State or a Union territory, by whatever name called, being a company registered under the Companies Act, 1956;
		<u>(iii) any company, co-operative society, trust or a body, by whatever name called, registered or constituted under any law for the time being in force and engaged in selling goods produced by micro or small enterprises and rendering services which are provided by such enterprises;</u>

Issues - Clause 22: Micro, Small & Medium Enterprises

Definition in the MSMED Act, 2006

<u>Section of the MSMED Act, 2006</u>	<u>Term</u>	<u>Definition</u>
2(b)	Appointed Day	Appointed day' means the day following immediately after the expiry of the period of fifteen days from the day of acceptance or the day of deemed acceptance of any goods or any services by a buyer from a supplier.
		Explanation For the purposes of this clause -
		(i) "the day of acceptance" means-
		(a) the day of the actual delivery of goods or the rendering of services; or
		(b) where any objection is made in writing by the buyer regarding acceptance of goods or services within fifteen days from the day of the delivery of goods or the rendering of services, the day on which such objection is removed by the supplier.
		(ii) "the day of deemed acceptance" means, where no objection is made in writing by the buyer regarding acceptance of goods or services within fifteen days from the day of the delivery of goods or the rendering of services, the day of the actual delivery of goods or the rendering of services.

Changes - Clause 22: Micro, Small & Medium Enterprises

Points to be considered by Tax auditor

- (a) Whether the enterprise is registered under the MSMED Act, 2006, since registration of MSME is a pre-requisite for attracting the provision of section 43B(h) of the IT Act.
- (b) If an entity is registered at any time during the current previous year, then, such registration will be applicable prospectively. Accordingly, any transactions carried out before the date of registration will not attract disallowance under section 43B(h).
- (c) If registration of the supplier is cancelled at any time during the previous year, then, it will be effective prospectively. Therefore, payment made for any purchases or services received before the date of cancellation shall be covered under section 43B(h).
- (d) Traders are allowed to be registered with MSME only for a limited purpose of Priority Sector Lending and not for any other benefit. Accordingly, if the supplier to the auditee is a retail or wholesale trader, the provisions of section 43B(h) of the Income-tax Act, 1961 would not be attracted

Changes - Clause 22: Micro, Small & Medium Enterprises

(e) For the purpose of disallowance under section 43B(h) of the Income-tax Act, 1961, the tax auditor should consider only the amount remaining outstanding as on 31st March of the financial year for the supply of goods or services.

Unpaid interest payable under section 16 of MSMED Act, 2006 need not again be considered for disallowance under section 43B(h) of the Income-tax Act, 1961, since, as per section 23 of the MSMED Act, 2006, the entire interest payable under section 16 of the said Act is inadmissible as deduction while computing income under section 28 of the Income-tax Act, 1961.

Changes - Clause 22: Micro, Small & Medium Enterprises

S.15 of the MSMED Act, 2006 requires the buyer to make payment to the supplier of the goods or services on or before date agreed upon (subject to max 45 days from the day of acceptance or deemed acceptance) or where there is no agreement in this behalf, before the Appointed Day.

(A) Where the agreement is in writing

The amount remaining outstanding as on 31st March of the FY but payment whereof has duly been made in the Next FY but within the time limit (agreed period or 45 days, whichever is earlier) will not attract disallowance us 43B(h).

(B) Where there is no agreement in writing

The amount remaining outstanding as on 31st March of the FY but payment whereof has duly been made in the next FY but within the time limit of 15 days will not attract disallowance us 43B(h).

Changes - Clause 22: Micro, Small & Medium Enterprises

Some examples for Applicability of S. 43B(h) in different cases

(A) Where the agreement is in writing

Sr No.	Day of acceptance or deemed acceptance	Agreed upon payment date in writing	Due Date of payment as per S.15 of MSMED Act	Actual Date of Payment	Status in terms of S. 43B(h)		
					AY 25-26	AY 26-27	AY 27-28
1	20-03-2025	19-04-2025	19-04-2025	19-04-2025	Allowed	-	-
2	20-03-2025	19-04-2025	19-04-2025	10-05-2025	Disallowed	Allowed	-
3	20-03-2025	19-04-2025	19-04-2025	10-06-2026	Disallowed	-	Allowed
4	20-03-2025	20-06-2025	04-05-2025	02-05-2025	Allowed	-	-
5	20-03-2025	20-06-2025	04-05-2025	08-05-2025	Disallowed	Allowed	-

Changes - Clause 22: Micro, Small & Medium Enterprises

Some examples for Applicability of S. 43B(h) in different cases
(B) Where there is no agreement in writing

Sr No.	Day of acceptance or deemed acceptance	Agreed upon payment date in writing	Appointed Day	Due Date of payment as per S.15 of MSMED Act	Actual Date of Payment	Status in terms of S. 43B(h)	
						AY 25-26	AY 26-27
1	20-03-2025	NA	05-04-2025	04-04-2025	29-03-2025	Allowed	-
2	20-03-2025	NA	05-04-2025	04-04-2025	04-04-2025	Allowed	-
3	20-03-2025	NA	05-04-2025	04-04-2025	10-04-2025	Disallowed	Allowed

Changes - Clause 26 : Section 43B Reporting Adjustments

Clause (26) has been amended as follows:

- ❑ Omission of the words "clause (a), (b), (c), (d), (e), (f) or (g) of" – This simplifies the language of the clause by removing the enumeration of sub-clauses under Section 43B.
- ❑ In sub-clause (A), the word "allowed" has been replaced with "allowable" – A linguistic refinement to enhance precision and clarity in reporting.
- ❑ In sub-clause (B), the phrase "and was" is replaced with "and (for clauses other than clause (h) of section 43B) was,"
This explicitly excludes clause (h) (pertaining to payments to micro and small enterprises) from Clause 26 reporting since the details are covered under revised Clause 22

Changes – Clause 28 and 29: Section 56(2)(viia) and 56(2)(viib)

Clause 28 and 29 have been omitted.

Clause 28 - Prior to the omission, the assessee was required to disclose the details of any property received, being the share of a company not being a public company, without consideration or for inadequate consideration as referred to in section 56(2)(viia).

Clause 29 – Prior to the omission, the assessee was required to disclose the details of any consideration received for issue of shares which exceeds the fair market value of the shares as referred to in section 56(2)(viib) of the Income Tax Act, 1961.

Changes - Clause 31 : Section 269SS, 269ST & 269T

- ❑ Company B purchased goods from Company A worth Rs. 3,00,000 on credit basis
Company A has dues payable to Company C
Company B has dues receivable from Company C
On the basis of internal arrangement between the 3 companies, Company A receives payment from Company B by set-off of inter-company balances

Earlier the following Questions used to arise-

- ❑ Section 269ST restricts receipts otherwise than through specified modes.
Whether settlement of debt by book entry are also restricted?
- ❑ How should such transactions be reported in Form 3CD?
- ❑ A similar provision regarding loans and deposits exists in section 269SS and section 269T

Changes - Clause 31 : Section 269SS & 269ST

To resolve the above issue – Dropdown Code for the Nature of amount/receipt/repayment is provided as below-

S. No	Nature of amount or receipt or repayment	Code
1	Cash payment	A
2	Cash receipt	B
3	Payment through non account payee cheque	C
4	Receipt through non account payee cheque	D
5	Transfer of asset	E
6	Transfer of liability	F
7	Conversion of assets	G
8	Conversion of liabilities	H
9	Journal entry [Debit]	I
10	Journal entry [Credit]	J
11	Any other mode [Debit]	K
12	Any other mode [Credit]	L

Changes - Clause 31 : Section 269SS & 269ST

Whether advance received from a person for sale of goods shall also be disclosed under Clause 31?

Loans or deposits are generally squared off by repayment of the sum to the lender. While as in the case of advance for the sale of goods, the party's ledger is squared off by the delivery of goods or services.

Thus, advance received against the agreement of sale of goods could not be deemed as loan or deposit. Accordingly, details of advances shall not be reported in Clause 31. Further, the ICAI, in the guidance note, has clarified that **Advance received against the agreement of sale of goods is not a loan or deposit.**

Changes - Clause 36B : Deemed Dividends u/s 2(22)(f)

New clause 36B is inserted w.e.f 1-4-2025, which is as below-

- (a) Whether the assessee has received any amount for Buyback of shares as referred to in sub-clause (f) of clause (22) of section 22?*
- (b) If yes, furnish Amount received and Cost of Acquisition of shares bought back.*

Issues - Clause 36B : Deemed Dividends u/s 2(22)(f)

Particulars	Current Regime (Till Sept 30, 24)	Revised Regime (From Oct 1, 24)
Applicable Law	Section 115QA & Section 10(34A)	Section 2(22)(f), Dividend Tax Provisions
Taxability of Buy-back	Taxed in the hands of the company	Taxed in the hands of the shareholder
Tax Rate	23.30% (including surcharge and cess) on distributed income	As per applicable slab rate / tax rate for shareholder
TDS	Not applicable	10% for residents; RIF / DTAA for non-residents
Shareholder Tax Liability	Exempt under Section 10(34A)	Taxable as dividend income (IFOS)
Deduction of Expenses	Not applicable	Not allowed
Capital Gains Treatment	Not applicable	Consideration deemed NIL → full capital loss
Capital Loss Set-off / Carry Forward	Not applicable	Allowed; can be carried forward for 8 years
Tax Credit to Shareholder	Not allowed	Not applicable as tax paid by shareholder directly
Administrative Burden	On company (calculate and pay buy-back tax)	On company (TDS) + shareholder (report and pay tax)



Questions

**THANK YOU
CA PIYUSH .S. CHHAJED**



