

DEMYSTIFYING TAX AUDIT AND CLAUSES IN FORM 3CA, 3CB AND 3CD

U/S 44AB of Income Tax Act, 1961

[Guidance Note on Tax Audit (Revised 2014) issued by the ICAI]

[Tax Audit revised guidance note 2018]

- **Notification No. 33/2014, F.No.133/1/2014-TPL dated 25.07.2014**
- **Notification No. 88/2016 Income Tax dated 29th September, 2016**
- **Notification No. 58/2017 dated 3rd July, 2017**
- **Notification no 33/2018 dated 20/07/2018 w.e.f 20.08.2018**

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CAG Reports Non-adherence to various provisions of Income Tax Act by CAS

**Report no.-32 of 2014-Union Government
(Department of Revenue-Direct Taxes) – Report of the
Comptroller and Auditor General of India on
Performance Audit on Appreciation of Third
Party (Chartered Accountant) Reporting in
Assessment Proceedings.**

**The Report has been laid on the table of the
Parliament house on 19-12-2014**

We found cases;

- (a) where the CAs failed to report full and correct information in 367 cases leading to short levy of taxes of Rs. 2,813.11 crore and
- (b) where the AOs failed to utilize the information available in 102 reports/certificates submitted to them leading to short levy of taxes of Rs. 1,310.05 crore.

Some of the important audit findings are as follows:

- a. Tax auditors failed to give correct information relating to allowance of depreciation in 66 cases involving short levy of tax of Rs. 457.79 crore (Paragraph 2.3).*
- b. Tax auditors did not report correct information regarding brought forward loss/depreciation resulting in irregular brought forward loss/depreciation allowance in 46 cases involving short levy of tax of Rs. 557.79 crore (Paragraph 2.4).*
- c. In 42 cases personal/capital expenditure was incorrectly allowed as the tax auditors did not report the amount in their tax audit reports which resulted in short levy of tax of Rs. 477.89 crore (Paragraph 2.5).*
- d. CAs have certified wrong information/claims for various exemptions and deductions in 74 cases having tax effect of Rs. 259.72 crore (Paragraph 2.7).*
- e. CAs gave incorrect/incomplete information in TARs/certificates in 132 cases having a revenue impact of Rs. 1,037.61 crore (Paragraph 2.8).*

We also found in another 616 cases where CAs committed mistakes viz. in allowance of exemption/deductions, charging of tax on Book Profit under Section 115JB, adoption of Arm's Length Price and reporting on cash payments exceeding Rs. 20,000 per day (Paragraphs 2.6 and 2.10-2.12).

In 109 cases, assesseees did not furnish requisite Form 3CEB on verification of ALP and Form 29B relating to certification for Book Profit (Paragraphs 2.10-2.11).

We have also commented on lacunae in the existing Forms which need modification in order to capture full information of the affairs of assesseees so that taxes are applied correctly (Paragraph 3.2-3.4).

Regarding monitoring of work of CAs and ensuring quality tax audit, ICAI issued guidance to its members for limiting the tax audit assignments in a financial year.

We found that 18.87 per cent of CAs (12,435 CAs) for AY 2013-14 issued more tax audit reports than prescribed by ICAI (Paragraph 3.6).

We also got cases where CAs did not mention their membership numbers (Paragraph 3.7).

ITD did not refer any case for professional negligence to ICAI for taking action against erring CAs in terms of Section 288 of the Act (Paragraph 3.9).

FAQ'S ON UDIN

A. About Unique Document Identification Number(UDIN)

1. What is Unique Document Identification Number (UDIN)?

Unique Document Identification Number (UDIN) is 18-Digits system generated unique number for every document certified/attested by Practicing Chartered Accountants.

2. What is the objective of UDIN?

It has been noticed that financial documents/ certificates attested by third person misrepresenting themselves as CA Members are misleading the Authorities and Stakeholders. ICAI is also receiving number of complaints of signatures of CAs being forged by non Cas.

To curb such malpractices, the Professional Development Committee of ICAI has come out with an innovative concept of UDIN i.e. Unique Document Identification Number which is being implemented in phased manner. It will secure the certificates attested/certified by practicing Cas. This will also enable the Regulators/Banks/Third parties to check the authenticity of the documents.

3. What is the reference of 18-Digits of UDIN?

The 18- digits UDIN (YY MMMMMM AANNNAANNN) will be like;

19987654AKHCKN2020

Wherein;

First 2 Digits are YY - Last 2 digits of the Current Year (19 in this case)

Next 6 Digits are MMMMMM – ICAI's Membership No. (987654 in this case)

Next 10 Digits are AANNNAANNN –Alpha-numeric generated randomly by the system (AKHCKN2020).

5. How is UDIN secure?

UDIN is totally secure as it can be viewed only by the Member and/ or the Regulators / other Stakeholders who are having the UDIN. Secondly, it does not contain any information of the client.

6. When to generate UDIN?

UDIN is to be generated at the time of signing the Certificate. However, the same can be generated within 15 days of the signing of the same (i.e within 15 days from the date mentioned at Certificates and not beyond that).

7. For generating UDIN, is any document is required to be uploaded on UDIN Portal?

No document is required to be uploaded for generating UDIN.

Audit of accounts of certain persons carrying on business or profession.

44AB. Every person -

(a) carrying on business shall,

- if his total sales, turnover or gross receipts,
- as the case may be,
- in business exceed or exceeds
- one crore rupees in any previous year; or

[Provided that in the case of a person whose -

(a) aggregate of all amounts received including amount received for sales,

- turnover or gross receipts during the previous year,
- in cash,
- does not exceed five per cent of the said amount; and

(b) aggregate of all payments made including amount incurred for expenditure, in cash,

- during the previous year does not exceed five per cent of the said payment,

[Provided further that for the purposes of this clause, the payment or receipt, as the case may be, by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the payment or receipt, as the case may be, in cash,]

this clause shall have effect as if for the words "one crore rupees", the words "[ten] crore rupees" had been substituted; or]

(b) carrying on profession shall,

- if his gross receipts in profession
- exceed [*fifty*] lakh rupees
- in any previous year; or

(c) carrying on the business shall,

- if the profits and gains from the business are deemed to be the profits and gains of such person
- under section 44AE or section 44BB or section 44BBB,
- as the case may be,
- and he has claimed his income to be lower than the profits or gains
- so deemed to be the profits and gains of his business,
- as the case may be,
- in any previous year; or

(d) carrying on the profession shall,

- if the profits and gains from the profession are deemed to be the profits and gains of such person under section 44ADA and
- he has claimed such income to be lower than the profits and gains so deemed to be the profits and gains of his profession and
- his income exceeds the maximum amount
- which is not chargeable to income-tax in any previous year; or

(e) carrying on the business shall,

- if the provisions of sub-section (4) of section 44AD are applicable in his case and
- his income exceeds the maximum amount which is not chargeable to income-tax in any previous year,
- get his accounts of such previous year audited by an accountant before the specified date and
- furnish by that date the report of such audit
- in the prescribed form duly signed and
- verified by such accountant and
- setting forth such particulars as may be prescribed :

- **Provided that** this section shall not apply to the person,
- who declares profits and gains for the previous year in accordance with the provisions of sub-section (1) of section 44AD and
- his total sales, turnover or gross receipts,
- as the case may be,
- in business does not exceed two crore rupees in such previous year:
- **Provided further** that this section shall not apply to the person,
- who derives income of the nature referred to in section 44B or section 44BBA,
- on and from the 1st day of April, 1985 or,
- as the case may be,
- the date on which the relevant section came into force,
- whichever is later :

- **Provided also** that in a case
- where such person is required by or under any other law to get his accounts audited,
- it shall be sufficient compliance with the provisions of this section
- if such person gets the accounts of such business or profession audited under such law
- before the specified date and
- furnishes by that date the report of the audit as required under such other law and
- a further report by an accountant in the form prescribed under this section.

Explanation.—For the purposes of this section,—

- (i) "accountant" shall have the same meaning as in the Explanation below sub-section (2) of section 288;
- (ii) "specified date", in relation to the accounts of the assessee of the previous year relevant to an assessment year, means the due date for furnishing the return of income under sub-section (1) of section 139.

Revised Guidance Note on Tax Audit (Revised 2014) issued by the ICAI

- **Turnover – Term not defined in the Act** - Aggregate amount received or receivable for which sales are effected or services rendered
- **Included :**
 - Sale of scrap
 - Sale proceeds of any shares, securities, debentures – held as stock-in-trade
- **Not included :**
 - Sale proceeds of fixed assets
 - Sale proceeds of property
 - Sale proceeds of any shares, securities, debentures – held as investments
 - Excise duty or sales tax recovered are credited in separate accounts and payments to authority are debited to same account

Revised Guidance Note on Tax Audit (Revised 2014) issued by the ICAI

➤ Turnover

➤ To deduct from the turnover :

- Discount allowed
- Turnover discount
- Special rebate (if it is in the nature of trade discount)
- Goods returned (even if returns are from the earlier years)

➤ Not to deduct from the turnover :

- Cash Discount
- Special rebate (if it is in the nature of commission on sales)

Revised Guidance Note on Tax Audit (Revised 2014) issued by the ICAI

➤ **Turnover... – Term not defined in the Act - All receipts in cash/kind arising from carrying on business/profession**

❑ Included :

- Advance received and forfeited from customers
- Liquidated Damages
- Hire charges of cold storage
- Net surplus in case of reimbursements / Out of pocket expenses – if not specifically collected
- Cash assistance / Duty Drawback for exports
- Commission, brokerage
- Exchange difference on export sales

Revised Guidance Note on Tax Audit (Revised 2014) issued by the ICAI

➤ Turnover

➤ Not included :

- Rental income not assessable as business income
- Reimbursement of custom duty / other charges collected by a clearing agent
- Sale proceeds of assets held as fixed assets / investments

Gross Receipts.....

➤ In case of Share brokers

- Transaction entered on his personal A/c is also included in the sale value for the purpose of Sec 44AB.
- Sub-broker is not different from a share broker.

➤ Turnover or Gross receipts - In case of shares, securities & derivatives

- a) Speculative Transaction:- Aggregate of Positive or negative differences arising on settlement of contracts is to be considered as turnover.
- b) Derivatives, futures & options:
 - Total of favourable and unfavourable differences
 - Premium received on sale of option
 - Difference of any reverse trade entered

Delivery based Transactions:- Total value of sales.

Gross Receipts.....

- For an **Agent**, turnover is the commission earned by him and not the aggregate amount for which sales are effected or services are rendered. **[ICAI's Guidance Note on Tax Audit]**
- In case of **Chit Fund Companies**, subscriptions are not to be treated as 'income' or 'turnover' for tax audit purposes. **Dy. CIT v. Mangal Dayal Chit Fund (P.) Ltd.[2005] 92 ITD 258 (Hyd.)**
- In the case of **Construction Business**, advance received for booking of flats is to be included in words 'gross receipts' as the same is to be adjusted towards cost of construction and has element of profit. **Dy. CIT vs Gopal Krishan Builders [2004] 91 ITD 124 (Lucknow-ITAT)(SMC)**
- Service tax is to be excluded from gross receipts for purpose of determining income u/s 44BB. **Western Geco International Ltd. Vs Assistant Commissioner of Income-tax [2016] 71 taxmann.com 166 (Delhi - Trib.)**

Revised Guidance Note on Tax Audit (Revised 2014) issued by the ICAI

➤ In case of Charitable Trust :

- Required only if the trust carries on business
- Turnover exceeds Rs.100 lakh
- Audit only of business carried on by trust – Not all activities
- Separate audit required under Sections 12A / 10(23C) for entire trust, including business

6.1. A trust/association/institution carrying on business may enjoy exemptions as the case may be under sections 10(21), 10(23A), 10(23B) or section 10(23BB) or section 10(23C) or section 11.

A co-operative society carrying on business may enjoy deduction under section 80P.

Such institutions/associations of persons will have to get their accounts audited and to furnish such audit report for purposes of section 44AB if their turnover in business exceeds the prescribed limit (Presently Rs.1 crore w.e.f. A.Y. 2013-14).

Revised Guidance Note on Tax Audit (Revised 2014) issued by the ICAI
The turnover exceeds specified limit but Income is below exemption limit

6. Liability to tax audit - Special cases

6.1 A question may arise in the case of an assessee whose income is not chargeable to income-tax by reason of a specific exemption contained in the law or otherwise, as to whether he is required to get his accounts audited and to furnish such report under section 44AB.

Such cases may cover those assesseees who are wholly outside the purview of income-tax law as well as those whose income is otherwise exempt under the Act.

It is felt that neither section 44AB nor any other provisions of the Act stipulate exemption from the compulsory tax audit to any person whose income is exempt from tax.

This section makes it mandatory for every person carrying on any business or profession to get his accounts audited where conditions laid down in the section are satisfied and to furnish the report of such audit in the prescribed form.

Applicability of Sec. 44AB- Where income is exempt u/s 10

- Provisions of Sec 44AB is not applicable to mutual funds whose income is exempt u/s 10(23D) even though its turnover or gross receipts or sales may have exceeded. Asstt. CIT v. India Magnum Fund [2002] 81 ITD 295 (Mum.- ITAT)
- The provisions of S.44AB were not applicable where income of assessee was exempt u/s 10(20) and the assessee had no income which would fall under heading 'PGBP'. CIT vs Market Committee, Sirsa [2012] 210 Taxman 20 (P&H)
- However, **ICAI** has taken a contrary view in its Guidance Note on Tax Audit on the grounds that neither Section 44AB nor any other provisions of the Act exempt an assessee from tax audit if his total income is exempt from tax. [**ICAI's Guidance Note on Tax Audit**].

Revised Guidance Note on Tax Audit (Revised 2014) issued by the ICAI

In case of an agriculturist

But an agriculturist, who does not have any income under the head "Profits and gains of business or profession" chargeable to tax under the Act and who is not required to file any return under the said Act, need not get his accounts audited for purposes of section 44AB even though his total sales of agricultural products may exceed the prescribed limit (Presently Rs.1 crore w.e.f. A.Y. 2013-14)

Applicability of sec 44AB to Political Parties....

Board is of the view that the income of the political parties are governed by the special provisions i.e. Section 13A of the I.T Act, 1961, and accordingly the provisions of Chapter-IVD which are applicable for 'profits and gains of business or profession' cannot be applied in the cases of political parties. Income of political parties from voluntary contributions cannot be said to be income from profession so as to attract Sections 44AB or 271B of the Income tax Act. *[Instruction No : 1988, [F. No. 225/128/99-ITA-II(Pt.)dt.19.10.2000]*

Issues - Applicability of Section 44AB....

Provision of Sec. 44AB are not applicable where assessee is engaged in promoting and developing 'game of hockey' in the country and does not involve any business activity and source of income is 'grant from Government'. **ITO v. Indian Hockey Federation [2011] 009 ITR (Tri.) 692, ITAT - Delhi**

Issues on sales / turnover / **gross receipts**

Issue - 1

A foreign company has business income of Rs. 3 crores in India. It does not have a permanent establishment in India. Whether the company is required to get its books audited under Section 44AB?

6.3 The case of non-residents may be considered separately. Section 44AB does not make any distinction between a resident or non resident.

Therefore, a non-resident assessee is also required to get his accounts audited and to furnish such report under section 44AB if his turnover/sales/gross receipts exceed the prescribed limits.

This audit, however, would be confined only to the Indian operations carried out by the non-resident assessee since he is chargeable to income-tax in India only in respect of income accruing or arising or received in India.

Issue - 2

An assessee has 3 businesses. The turnover of business A, B and C being Rs. 75 lakh, Rs. 65 lakh and Rs. 95 lakh, respectively. Separate books of account are maintained for all the businesses.

Comment -

- Will the tax audit under Section 44AB be applicable?
 - ✓ Limits of sales / turnover / gross receipts for an assessee to be calculated for **all businesses** carried on by him
 - ✓ The aggregate turnover from all businesses exceeds the Rs. 1 crore limit, hence, **tax audit applicable**
- Particulars of all businesses be reported in a single Form No. 3CD?...
 - ✓ Two possibilities
 - Separate Tax Auditor appointed for individual businesses
 - One Tax Auditor for audit of all businesses

Issue - 3

M/s. RPG P Ltd Carries on business of trading in Granite Slabs
During the FY 2020-21 relevant to AY 2021-22, its turnover from business was Rs. 97.5 Lacs

Also, the company sold its car for Rs. 4.5 lacs during the year
The sale of car was shown as turnover for the purpose of GST returns
Whether Sec 44AB is applicable in this case ?

Every Person,

(a) Carrying on business shall, if his total sales, turnover or gross receipts, as the case may be, in business exceed or exceeds one crore rupees in any previous year.

Issue - 4

M/s. Kamal Ltd achieved a turnover of Rs. 102 lacs during the financial year 2020-21 relevant to AY 2021-22.

Also, it has sales return of Rs. 3.5 lacs

Out of the sales returns of Rs. 3.5 lacs, Rs. 3.25 lacs represents the return out of sales made during the earlier year

Whether tax audit is applicable ?

View – I – Turnover minus sales return - Rs. 98.5 lacs (i.e., $102 - 3.5$)

View – II – Turnover minus sales return out of sales of Current year – Rs. 101.75 lacs (i.e., $102 - 0.25$)

Issue - 5

Dr T K Ramesh is a medical practitioner, having clinic and medical shop.

His turnover/gross receipts are as under:

Fees from Profession - Rs. 40 lacs

Sales in medical Shop- Rs. 70 lacs

Advise whether sec 44AB is applicable to him.

Every person,—

(a) carrying on business shall, if his total sales, turnover or gross receipts, as the case may be, in business exceed or exceeds one crore rupees in any previous year ; Or

(b) carrying on profession shall, if his gross receipts in profession exceed fifty lakh rupees in any previous year;

When can audit report be revised ?????

13.11 In certain cases, members are called upon to report on the accounts reopened and revised by the board of directors.

The accounts of a company once adopted at its annual general meeting should not normally be re opened and revised.

The Institute and the Ministry of Corporate Affairs have affirmed this position.

In case of revision, the audit report should be given in the manner as required by the Institute in SA-560 (Revised), Subsequent Events.

The Ministry of Corporate Affairs had also clarified that accounts can be revised to comply with technical requirements.

It may be pointed out that 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:

- (i) revision of accounts of a company after its adoption in annual general meeting.
- (ii) change of law e.g., retrospective amendment.
- (iii) change in interpretation, e.g. CBDT Circular, judgements, etc.

PRESUMPTIVE TAXATION

Special provision for computing profits and gains of business on presumptive basis.

44AD. (1)

- Notwithstanding anything to the contrary contained in sections 28 to 43C,
- in the case of an **eligible assessee** engaged in an **eligible business**,
- a sum equal to eight per cent of the total turnover or gross receipts of the assessee in the previous year on account of such business or, as the case may be,
- a sum higher than the aforesaid sum claimed to have been earned by the eligible assessee,
- shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

[Provided that this sub-section shall have effect as if for the words "eight per cent",

- the words "six per cent" had been substituted,
- in respect of the amount of total turnover or gross receipts
- which is received by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account [or through such other electronic mode as may be prescribed]
- during the previous year or before the due date specified
- in sub-section (1) of section 139 in respect of that previous year.]

44AD (2)

Any deduction allowable

- under the provisions of sections 30 to 38 shall,
- for the purposes of sub-section (1),
- be deemed to have been already given full effect to and no further deduction under those sections shall be allowed :

44AD (3)

The written down value

- of any asset of an eligible business
- shall be deemed to have been calculated
- as if the eligible assessee had claimed and
- had been actually allowed the deduction
- in respect of the depreciation
- for each of the relevant assessment years.

44AD (4)

- Where an eligible assessee declares profit for any previous year in accordance with the provisions of this section and
- he declares profit for any of the five assessment years relevant to the previous year succeeding such previous year not in accordance with the provisions of sub-section (1),
- he shall not be eligible to claim the benefit of the provisions of this section for five assessment years subsequent to the assessment year relevant to the previous year
- in which the profit has not been declared in accordance with the provisions of sub-section (1).

44AD (5)

- Notwithstanding anything contained in the foregoing provisions of this section,
- an eligible assessee to whom the provisions of sub-section (4) are applicable and
- whose total income exceeds the maximum amount which is not chargeable to income-tax,
- shall be required to keep and maintain such books of account and other documents as required under sub-section (2) of section 44AA and
- get them audited and
- furnish a report of such audit as required under section 44AB.

44AD (6)

- The provisions of this section,
- notwithstanding anything contained in the foregoing provisions,
- shall not apply to—
 - (i) a person carrying on profession as referred to in sub-section (1) of section 44AA;
 - (ii) a person earning income in the nature of commission or brokerage; or
 - (iii) a person carrying on any agency business.

Explanation. - For the purposes of this section,—

(a) "eligible assessee" means,—

(i) an individual, Hindu undivided family or a partnership firm, who is a resident, but not a limited liability partnership firm as defined under clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009); and

(ii) who has not claimed deduction under any of the sections 10A, 10AA, 10B, 10BA or deduction under any provisions of Chapter VIA under the heading "*C. - Deductions in respect of certain incomes*" in the relevant assessment year;

(b) "eligible business" means,—

(i) any business except the business of plying, hiring or leasing goods carriages referred to in section 44AE; and

(ii) whose total turnover or gross receipts in the previous year does not exceed an amount of two crore rupees.

Section 44AD - Analysis

Applicability

- Assessee, who is resident in India
 - Individual, HUF and Partnership Firm **but not Limited Liability Partnership (“LLP”) – Refer Explanation to Section 44AD**
 - **Not claimed deductions** under Sections 10A, 10AA, 10B, 10BA or Part C of Chapter VIA (80HH to 80RRB) in relevant year.

Eligible Business does not Include:

Person engaged in business of plying, hiring or leasing goods carriages referred to in Section 44AE

Profession referred to u.s 44ADA

Commission or Brokerage

Agency Business

Turnover more than Rs. 2 Crores

Section 44AD - Analysis

Estimated income

6% of Turnover received by a/c payee cheque, bank draft or ECS
before the due date of filing the Return of Income.
8% of Turnover not covered above.

Non Admissibility of Business Deductions

All deductions from sec 30 to 38 including Depreciation deemed
to have been allowed.

No Deduction of Interest and Salary to Partners

Up to A.Y. 2016-17 allowed
From A.Y. 2017-18 not allowed.

Section 44AD - Analysis

Deduction under Chapter VI A allowable

Deduction u/s 80C to 80 U are allowed

Books of Account need not be maintained

No Books – No Audit

Basic Records to be maintained – Turnover – Receipt by cash or other mode – WDV.

Lower Income may be declared

If declared in subsequent year with audited accounts – not eligible to claim benefit u/s. 44AD for subsequent five years.

If the total income exceeds the basic limit accounts are to be audited.

ISSUES IN 44AD

ISSUE - 1

X Pvt ltd company was into construction business.

Its turnover was Rs.95 lacs

It is ready to offer 8% on its turnover

Can it do so?

Would your answer be different if it is an LLP instead of Pvt Ltd Co?

Sec 44AD –

Explanation.—For the purposes of this section,-

(a) "eligible assessee" means,—(i) an individual, Hindu undivided family or a partnership firm, who is a resident, but not a limited liability partnership firm as defined under clause (n) of subsection (1) of section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009);

ISSUE - 2

Mr. Ashwin Mehta is a non-resident Indian

He achieved a turnover of Rs.85 lacs

He earned an income of 8% on the turnover

Can he claim the benefit of sec 44AD

Would your answer be different if the status of the assessee is resident – AOP?

Sec 44AD Explanation.—For the purposes of this section,—

(a) "eligible assessee" means,—

(i) an individual, Hindu undivided family or a partnership firm, who is a resident, but not a limited liability partnership firm as defined under clause (n) of subsection (1) of section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009);

ISSUE - 3

Mr. Rama, A Resident individual, is carrying on three eligible business, the turnover of which is as under

- Business A (Rs.135 Lac)
- Business B (Rs.45 Lac)
- Business C (Rs.30 Lac)

Can Rama offer his income u/s. 44AD?

The Answer is NO

Because turnover of eligible business exceeds Rs.2 Crores

ISSUE - 4

Mr. Rama, a Resident individual, is carrying on two businesses, the turnover of which is as under

- Business A (Eligible Business) Rs.65 Lakhs
- Profession Rs.30 Lakhs
- Business B (Transport u/s 44 AE) Rs. 8 Lakhs

Whether provisions of sec. 44AD, 44AE or 44ADA are applicable?

Section 44AD and 44AE both are applicable, as profession is not included under section 44AD and section 44AD and 44AE are independent of each other.

ISSUE - 5

Issue 5.1

Shivkumar has paid Rs.15,000 for purchase of goods in cash. Can disallowance be made u/s. 40A(3).

No disallowance can be made under section 40A(3) for the same.

Issue 5.2

Ramesh has paid Rs.38,000 to transporter for freight in cash. Can disallowance be made u/s. 40A(3)?

No disallowance can be made under Section 40A(3).

Issue 5.3

John has contributed certain sum to national Laboratory which qualifies for deduction under section 35(2)(AA). Can deduction be claimed u/s. 35(2)(AA)?

No, if he chooses section 44AD he will not be eligible for benefit of this section.

Issue 5.4

Rashid has recovered certain bad debts written off in earlier years of Rs.45,000.

Can addition be made u/s. 41(1)?

It may not be added in specified amount declared.

ISSUE - 6

A Partnership Firm Anjana Leather Corporation is involving in manufacturing of leather and it is offering income u/s 44AD each year. Now, it converts its business to LLP. Whether it can continue to offer income u/s 44AD?

The Presumptive Taxation scheme of Section 44AD can be adopted only by Individual, HUF and Partnership Firm (Not LLP). So, the firm cannot offer presumptive income u/s 44AD since it has converted into LLP.

ISSUE- 7

Rishi an Individual, who is offering income u/s 44AD each year became a non-resident in the previous year 2020-21 relevant to assessment year 2021-22. Whether he can continue to offer presumptive income u/s 44AD ?

The Presumptive Income u/s 44AD will be applicable only to the resident individual. Non-Resident cannot avail the benefit u/s.44AD.

ISSUE-8

Deepak is doing brokerage business who has received brokerage for Rs. 90,00,000/- and has declared income @ 5% amounting to Rs.4,50,000/-. Should his books of Accounts be audited u/s 44AB since he is offering income less than 8%?

Audit u/s 44AB is applicable if he is declaring income lower than the rate specified u/s 44AD. But, section 44AD is not applicable to Agency, Commission and Brokerage. Hence, he can declare income less than 8%.

ISSUE-9

Tarun, an Individual is engaged in contracting business. He has total turnover of Rs.80 Lakhs and he has earned profit of Rs.12 Lakhs as per his Profit & Loss A/c. Whether he can declare income of Rs. 6.4 Lakhs (8% of Rs.80 lakhs) as presumptive Income u/s 44AD?

He has to offer income at 8% of his turnover or higher income he earned as his presumptive income u/s 44AD.

ISSUE-10

Vishwas, has opted to declare his income under the presumptive taxation scheme who is liable to pay advance tax in each installment and whether he will be liable to the interest u/s 234C?

The Person who opts for Presumptive taxation will be liable to pay only March month advance tax installment of 100% on or before 15th March, otherwise he will liable to pay interest u/s 234C @ 1%.

ISSUE-11

Vinay had a turnover of Rs.1.2 crore in AY 2021-22, which were realized in following ways :

- **Cash component** – Rs.35 Lakhs.
- **A/c payee Cheque or ECS :**
 - a) Upto 31.03.2021 - Rs.75 Lakhs.
 - b) Upto 31.07.2021 – Rs.5 Lakhs.
 - c) Upto 30.09.2021 – Rs.5 Lakhs.

Compute profits u/s 44AD.

Under 44AD, there are two rate to calculate presumptive income, i.e. 8% and 6%.

In order, to apply 6% on Sales turnover following are conditions specified :

- a) Sales should be realized through bank
- b) Such bank receipts should be received on or before due date u/s 139(1)

Hence in case the assessee can offer profits @ 6% only on Rs.80 Lakhs and balance Rs.40 Lakhs should be offered @ 8%.

Profit u/s 44AD = Rs.8,00,000/-

$(6\% * \text{Rs.80Lakhs} = \text{Rs. 4,80,000/-} + 8\% * 40\text{Lakhs} = \text{Rs. 3,20,000/-})$

ISSUE-12

Prakash (HUF) is the proprietor of Prakash & Co which had a turnover of Rs.1.20 Crores in AY 2021-22, but he computed a business income of Rs.2 Lakhs. Prakash (HUF) has no other source of Income.

Whether Prakash (HUF) is liable for Tax Audit.

What if Prakash (HUF) has Loss in business.

Also state whether Prakash & Co is liable for Tax Audit, if Prakash & Co is a Firm?

- Since Prakash (HUF) wants to offer income lower than limits specified in section 44AD, Tax audit is applicable u/s 44AB. But in this case as Prakash (HUF) has no other source of income and his income computed does not exceed the basic exemption limit, No Tax Audit is applicable.
- If Prakash (HUF) has loss from such business, No Tax audit u/s 44AB is required.
- If Prakash & Co is a Firm, there is no basic exemption limit hence, Tax Audit u/s 44AB is applicable.

ISSUE-13

Kamlesh, an eligible assessee is engaged in trading business of goods both in his own name and also as a consignee for another person. The Total Sales amounted to Rs.1.60 Crores, Turnover Details are as follows:

Own Business Turnover = Rs.90 Lakhs

Consignment Sales Turnover = Rs.70 Lakhs

Whether Kamlesh can opt for Presumptive income computation or not?

- For computing Turnover for 44AD, the turnover of sale of goods on his own name should alone to be considered i.e. Rs.90 Lakhs.
- Here, the commission received on Consignment sales is liable for Tax Audit only when such commission exceeds the limit of Rs.2 Crores.
- Consignment Commission can be offered at any rate (Even below 8%), provisions of Sec.44AD will not govern the commission income.

Special provision for computing profits and gains of profession on presumptive basis.

44ADA. (1)

- Notwithstanding anything contained in sections 28 to 43C,
- in case of an assessee, being an individual or a partnership firm other than a limited liability partnership as defined under clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009), who is a resident in India, and
- is engaged in a profession referred to in sub-section (1) of section 44AA and
- whose total gross receipts do not exceed fifty lakh rupees in a previous year,
- a sum equal to fifty per cent of the total gross receipts of the assessee
- in the previous year on account of such profession or,
- as the case may be,
- a sum higher than the aforesaid sum
- claimed to have been earned by the assessee,
- shall be deemed to be the profits and gains of such profession
- chargeable to tax under the head "Profits and gains of business or profession".

44ADA(2)

- Any deduction allowable
- under the provisions of sections 30 to 38 shall,
- for the purposes of sub-section (1),
- be deemed to have been already given full effect to and
- no further deduction under those sections
- shall be allowed.

44ADA(3)

- The written down value
- of any asset used for the purposes of profession
- shall be deemed to have been calculated as if
- the assessee had claimed and
- had been actually allowed the deduction
- in respect of the depreciation
- for each of the relevant assessment years.

44ADA(4)

- Notwithstanding anything contained in the foregoing provisions of this section,
- an assessee who claims that his profits and gains from the profession
- are lower than the profits and gains specified in sub-section (1) and
- whose total income exceeds the maximum amount which is not chargeable to income-tax,
- shall be required to keep and maintain such books of account and other documents as required under sub-section (1) of section 44AA and
- get them audited and furnish a report of such audit as required under section 44AB.

44ADA – Analysis

Applicability

Resident Assessee – Profession referred to in Section 44AA(1)

Gross Receipts do not exceed Rs. 50 Lakhs

Iswar's Committee's Recommendations – Rs. 1 Crore and 33.33
% of Gross Receipts

44ADA – Analysis

- **Profession referred to in Section 44AA(1)**

1. Legal	5 Accountancy
2. Medical	6. Technical Consultancy
3. Engineering	7. Interior Decoration
4. Architecture	8. Other notified Professions

- **Other notified Professions:**

a. Authorised Representative
b. Film Artist
c. Company Secretary
d. Information Technology

44ADA – Analysis

Estimated Income:

50% of Gross Receipts as professional Income

Other income – normal course

Non Admissibility of business Deductions:

All Deductions u.s 30 to 38 including Depreciation deemed to have been allowed.

44ADA – Analysis

Deduction under Chapter VI A allowable:

Deduction us 80 C to 80 U are allowed.

Books of Account need not be maintained

No Books – No Audit

Basic Records to be maintained – Turnover – WDV.

44ADA – Analysis

Bar of 5 years

No such concept – Option each year

Tax Liability and Advance Tax

Tax to be paid at applicable rates

Advance Tax to be paid in one installment on 15th March.

Section 44ADA - Analysis

Situations	In the hands of the Firm	In the hands of the Partner
Firm's revenue > Rs. 50 lakh	<ul style="list-style-type: none"> • Not eligible for presumptive taxation • Claim expenditure on interest and remuneration • Sections 44AA and 44AB applicable 	<ul style="list-style-type: none"> • To pay tax on interest and remuneration claimed by firm • Not to consider share of profit as part of gross receipt
Firm's revenue < = Rs. 50 lakh	<ul style="list-style-type: none"> • Presumptive taxation • No deduction for interest and remuneration • No tax audit 	<ul style="list-style-type: none"> • Fully exempt income-Share of Profit • Not to consider this as separate gross receipt

Section 44ADA - Analysis

- Section 44AA - Maintenance of books of account
 - Non-applicability from maintaining books of account and tax audit, if the assessee opts for presumptive taxation
 - No specific exclusion, but Section 44AA(1) meant for computing taxable income
 - Obligation created in case where lower profits are declared

Section 44ADA - Analysis

- XYZ, a partnership firm, is covered under Section 44ADA
- During the year, XYZ had availed a loan from PQR Co. of Rs. 20 lakhs @ 10%
- While paying the interest, XYZ failed to deduct and deposit TDS
- Section 40(a)(ia) and Section 44ADA – Non-obstante provisions
- While computing presumptive income @ 50% of gross receipts, can tax authority disallow payment of interest under Section 40(a)(ia) and make addition to income determined on presumptive basis?
- ✓ Jaharlal Mukherjee v. I.T.O [AY 2008-09] [ITA No. 73/Kol/2014]
- ✓ I.T.O v. Mark Construction [2012] [23 taxmann.com 398 (Kol)]

Section 44ADA - Analysis

❑ Mr. Rishi, an eligible professional, is a proprietor of Rishi R Jain as well as a partner of Rishi & Dilip which is a partnership firm.

❑ For PY 2016-17, Mr. Rishi had following receipts:

Particulars	Rs. in lakhs
Receipts from proprietary business	40
Share of profit from firm Rishi & Dilip	20
Interest on capital from firm Rishi & Dilip	20
Remuneration from firm Rishi & Dilip	20

❑ Is Mr. Rishi covered under Section 44ADA?

Hon'ble Madras High Court in Anandkumar [TS-690-HC-2020(MAD)].

Special provision for computing profits and gains of business of plying, hiring or leasing goods carriages.

44AE(1)

- Notwithstanding anything to the contrary contained in sections 28 to 43C,
- in the case of an assessee,
- who owns not more than ten goods carriages at any time during the previous year and
- who is engaged in the business of plying, hiring or leasing such goods carriages,
- the income of such business chargeable to tax under the head "Profits and gains of business or profession"
- shall be deemed to be the aggregate of the profits and gains, from all the goods carriages owned by him in the previous year,
- computed in accordance with the provisions of sub-section (2).

44AE(2)

For the purposes of sub-section (1),
the profits and gains from each goods carriage,—

(i) being a heavy goods vehicle,

- shall be an amount equal to one thousand rupees per ton of gross vehicle weight or unladen weight,
- as the case may be,
- for every month or part of a month
- during which the heavy goods vehicle is owned by the assessee
- in the previous year or
- an amount claimed to have been actually earned from such vehicle,
- whichever is higher;

(ii) other than heavy goods vehicle,

- shall be an amount equal to seven thousand five hundred rupees for every month or part of a month
- during which the goods carriage is owned by the assessee
- in the previous year or
- an amount claimed to have been actually earned from such goods carriage,
- whichever is higher.

44AE(3)

- Any deduction allowable under the provisions of sections 30 to 38 shall,
- for the purposes of sub-section (1),
- be deemed to have been already given full effect to and
- no further deduction under those sections shall be allowed :

Provided that where the assessee is a firm,

- the salary and interest paid to its partners shall be deducted from the income computed under sub-section (1)
- subject to the conditions and limits specified in clause (b) of section 40.

44AE(4)

- The written down value of any asset
- used for the purpose of the business referred to in sub-section (1)
- shall be deemed to have been calculated
- as if the assessee had claimed and had been actually allowed the deduction
- in respect of the depreciation
- for each of the relevant assessment years.

44AE(5)

- The provisions of sections 44AA and 44AB shall not apply in so far as they relate to the business
- referred to in sub-section (1) and
- in computing the monetary limits under those sections,
- the gross receipts or,
- as the case may be,
- the income from the said business shall be excluded.

44AE(6)

- Nothing contained in the foregoing provisions of this section shall apply,
- where the assessee claims and produces evidence to prove
- that the profits and gains from the aforesaid business
- during the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or any earlier assessment year,
- are lower than the profits and gains specified in sub-sections (1) and (2), and
- thereupon the Assessing Officer shall proceed to make an assessment of the total income or
- loss of the assessee and
- determine the sum payable by the assessee
- on the basis of assessment made under sub-section (3) of section 143.

44AE(7)

- Notwithstanding anything
- contained in the foregoing provisions of this section,
- an assessee may claim lower profits and gains
- than the profits and gains specified in sub-sections (1) and (2),
- if he keeps and maintains such books of account and
- other documents as required under sub-section (2) of section 44AA and
- gets his accounts audited and
- furnishes a report of such audit as required under section 44AB.

Explanation.—For the purposes of this section,—

- (a) the expressions "goods carriage", "gross vehicle weight" and "unladen weight" shall have the respective meanings assigned to them in section 2 of the Motor Vehicles Act, 1988 (59 of 1988);
- (aa) the expression "heavy goods vehicle" means any goods carriage, the gross vehicle weight of which exceeds 12000 kilograms;
- (b) an assessee, who is in possession of a goods carriage, whether taken on hire purchase or on instalments and for which the whole or part of the amount payable is still due, shall be deemed to be the owner of such goods carriage.

44AE - Analysis

Applicability

Plying, Leasing or hiring of Trucks owning not more than 10 trucks at any time during the year.

Estimated Income:

For A.Y. 2018-19 – Rs. 7,500/- p.m. or part.

For A.Y. 2019-20

For Heavy Goods Vehicle – Rs. 1,000 p.m. per ton

For others Rs. 7,500/- p.m.

44AE - Analysis

- Non Admissibility of business Deductions:
- All Deductions u.s 30 to 38 including Depreciation deemed to have been allowed.

44AE - Analysis

- Deduction of Interest and Salary to Partners:
- Allowed subject to limits specified u.s 40b

44AE - Analysis

Deduction under Chapter VI A allowable:

Deductions u.s 80C to 80U are allowed

44AE - Analysis

Lower Income may be declared in subsequent year – no restrictions.

No Books – No Audit

Basic Records to be maintained – Turnover –WDV.

44AE - Analysis

Tax Liability and Advance Tax

To be paid at applicable rates as per normal provisions.- No concession as in other two schemes.

REPORTING REQUIREMENTS

SR NO	FORMS	PARTICULARS	FORMS
1	3CA	Person carrying on business or profession and required to get under any other law to get his accounts audited	<u>FORM 3CA</u>
2	3CB	Person carrying on business or profession and not covered in point 1	<u>FORM 3CB</u>
3	3CD	Particulars to be furnished under section 44AB shall be in this form	<u>FORM 3CD</u>

❑ **To indicate –**

- Whether the statutory audit was conducted by the Tax auditor or any other auditor; the name in case of any other auditor
- Whether the Audit Report, Audited Balance Sheet and Statement of Profit and Loss and other documents to be part of or annexed thereto are annexed in Form No. 3CA
- Reference as to the date of Statutory Audit Report

❑ **To indicate –**

- Whether the particulars required is annexed in Form No. 3CD
- Whether the particulars given in Form No. 3CD are true and correct
- Any observation/qualification

❑ **To examine -**

- The books of account
- Other relevant documents

❑ **To state reasons,** if any of the observations or qualifications

❑ **To indicate** if the branch audit is carried out, the same have been considered

FORM NO. 3CA

[See rule 6G(1)(a)]

Audit report under section 44AB of the Income - tax Act, 1961, in a case where the accounts of the business or profession of a person have been audited under any other law

1. *I / we report that the statutory audit of M/s. _____ (Name and address of the assessee with Permanent Account Number) was conducted by *me / us / M/s.

_____ in pursuance of the provisions of the _____ Act, and *I/we annex hereto a copy of *my / our / their audit report dated _____ along with a copy of each of :-

- (a) the audited *profit and loss account / income and expenditure account for the period beginning from -----to ending on -----.
- (b) the audited balance sheet as at, _____; and
- (c) documents declared by the said Act to be part of, or annexed to, the *profit and loss account / income and expenditure account and balance sheet.

2. The statement of particulars required to be furnished under section 44AB is annexed herewith in Form No. 3CD.

3. In *my / our opinion and to the best of *my / our information and according to examination of books of account including other relevant documents and explanations given to *me / us, the particulars given in the said Form No.3 CD are true and correct subject to the following observations/qualifications, if any:

- a.
- b.
- c.

List provided
in e-utility

**(Signature and stamp/Seal of the signatory)

Place : _____

Date : _____

Name of the signatory

Full address.....

Notes :

1* Delete whichever is not applicable

2. **This report has to be signed by -

- ~~i. a chartered accountant within the meaning of the chartered accountant Act 1949,~~
- ~~ii. any person who, in relation to any State, is, by virtue of the provision of sub section(2) of the companies Act 1956 , entitled to be appointed to act as an auditor companies registered in the State~~
- ~~iii. any person who is, by virtue of any law, entitled to audit the accounts of the assessee for the relevant previous year~~

2 **This report has to be signed by a person eligible to sign the report as per the provisions of section 44AB of the Income Tax Act, 1961.

3 Where any of the requirements in this Form is answered in the negative or with qualification, give reasons therefore.

4. The person who signs this audit report shall indicate reference of his membership number / certificate of practice / authority under which he is entitled to sign this report.

Form No. 3CB...

Form 3CB



```
graph TD; A[Form 3CB] --> B[Opinion of Tax Auditor on whether the accounts audited show a true and fair view]; A --> C[Statement of particulars to be furnished under Section 44AB annexed to auditor's report in Form 3CD];
```

Opinion of Tax Auditor on whether the accounts audited show a true and fair view

Statement of particulars to be furnished under Section 44AB annexed to auditor's report in Form 3CD

➤ To indicate –

- Whether the Balance Sheet and Statement of Profit and Loss have been examined by the Tax Auditor
- Whether the Balance Sheet and Statement of Profit and Loss are attached to Form No. 3CB
- Whether Balance Sheet and Statement of Profit and Loss are in agreement with the books of account
- Any observations / comments / discrepancies / inconsistencies
- Whether all the information and explanations are received
- Whether the accounts give a true and fair view

➤ To indicate –

- Whether the particulars required is annexed in Form No. 3CD
- Whether the particulars given in Form No. 3CD are true and correct

➤ To state reasons in case of observations / qualifications

➤ To indicate if the branch audit is carried out, the same have been considered

FORM NO. 3CB

[See rule 6G(1)(b)]

**Audit report under section 44AB of the Income - tax Act 1961,
in the case of a person referred to in clause (b) of sub - rule (1) of rule 6G**

1.*I / we have examined the balance sheet as on, _____, and the *profit and loss account / income and expenditure account for the period beginning from -----
-----to ending on -----., attached herewith, of
_____(Name), _____(Address),
_____(Permanent Account Number).

2. *I / we certify that the balance sheet and the *profit and loss / income and expenditure account are in agreement with the books of account maintained at the head office at _____ and ** _____ branches.

Mention the total number
of branches

3.(a) *I / we report the following observations / comments / discrepancies / inconsistencies; if any:

(b) Subject to above, -

(A)*I / we have obtained all the information and explanations which, to the best of *my / our knowledge and belief, were necessary for the purpose of the audit.

(B) In *my / our opinion, proper books of account have been kept by the head office and branches of the assessee so far as appears from*my / our examination of the books.

(C) In *my / our opinion and to the best of *my / our information and according to the explanations given to *me / us, the said accounts, read with notes thereon, if any, give a true and fair view :-

(i) in the case of the balance sheet, of the state of the affairs of the assessee as at 31st March, ;and

(ii) in the case of the *profit and loss account / income and expenditure account of the *profit / loss or *surplus / deficit of the assessee for the year ended on that date.

4. The statement of particulars required to be furnished under section 44AB is annexed herewith in Form No.3CD.
5. In *my/our opinion and to the best of *my / our information and according to explanations given to *me / us, the particulars given in the said Form No.3 CD are true and correct subject to following observations/qualifications, if any:

a.

b.

c.

List provided
in e-utility

**(Signature and stamp/Seal of the signatory)

Place : _____

Date : _____

Name of the signatory

Full address.....

Notes :

1. *Delete whichever is not applicable.
2. **Mention the total number of branches.
3. ***This report has to be signed by-
 - ~~i. A chartered accountant within the meaning of the Chartered Accountant Act 1949, (38 of 1949);~~
OF
 - ~~ii. Any person who, in relation to any state, is, by virtue of the provision of sub section(2) of section 226 of the companies Act 1956 (1 of 1956), entitled to be appointed to act as an auditor companies registered in the State.~~ **person eligible to sign the report as per the provisions of section 44AB of the Income Tax Act, 1961.**
4. The person, who signs this audit report, shall indicate reference of his membership number / certificate of practice number / authority under which he is entitled to sign this report.

Form 3CB.....

Auditor Details

☐ Income-Tax

☒ Final Accounts

Select Auditor

Name	First Name	Middle Name
	<input type="text"/>	<input type="text"/>
	Last Name	
<input type="text"/>		
Membership No.	<input type="text"/>	FRN <input type="text"/>
Address Line 1	<input type="text"/>	
Address Line 2	<input type="text"/>	
City	<input type="text"/>	
State	<input type="text"/>	
Pincode	<input type="text"/>	

Unique Document Identification Number (UDIN)

(UDIN is for printing purpose only, not for e-Filing)

Note:

1. This report has to be signed by person eligible to sign the report as per the provisions of section 44AB of the Income-tax Act, 1961
2. Stamp/ Seal of Signatory to Tax Audit Report required on physical copy of report.
3. **Generating UDIN to file tax audit report is now mandatory.**

FORM 3CA & 3CB

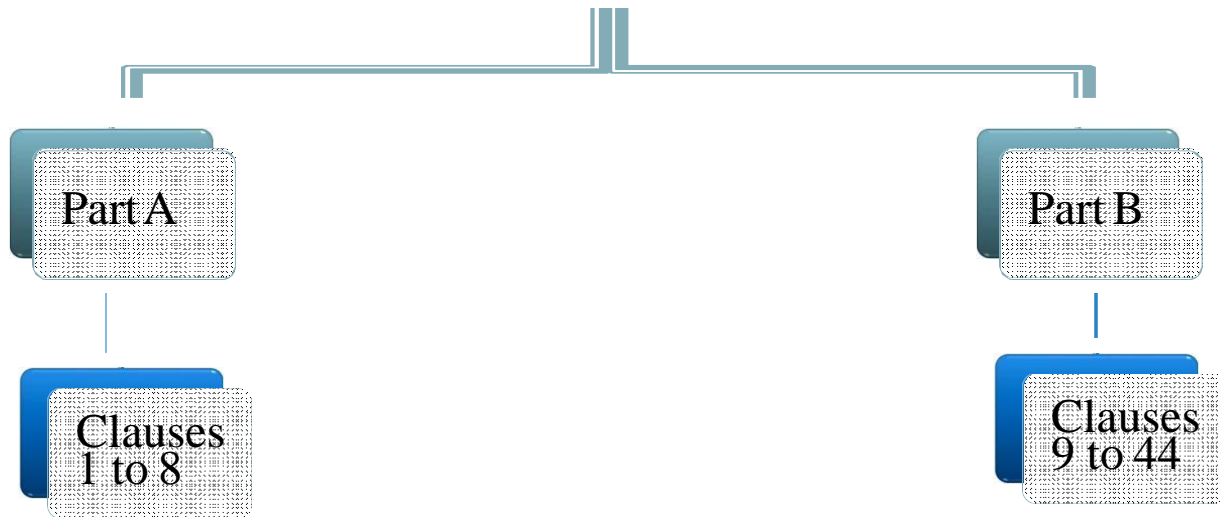
In the utility, for qualifications, the following format is prescribed:

Sr No.	Qualification Type (to select from a drop down list)	Observations/Qualifications
1	Proper books of account, to enable reporting in form 3CD, have not been maintained by the assessee	
2	All the information and explanations which to the best of my/our knowledge and belief were necessary for the purpose of my/our audit has not been provided by the assessee	
3	Documents necessary to verify the reportable transaction were not made available.	
4	Proper stock Records are not maintained by the assessee	
5	Valuation of Closing stock is not possible	
6	Yield / Percentage of wastage is not ascertainable.	

Sr No.	Qualification Type (to select from a drop down list)	Observations/ qualifications
7	Records necessary to verify personal nature of expenses not maintained by the assessee	
8	T D S returns could not be verified with the books of account	
9	Records produced for verification of payments through account payee cheque were not sufficient	
10	Amount of expenses related to exempt income U/s 14 A of Income-tax Act, 1961 could not be ascertained	
11	Creditors under Micro, Small and Medium Enterprises Development Act, 2006 are not ascertainable	
12	Prior Period expenses are not ascertainable from books of account	

Sr No.	Qualification Type (to select from a drop down list)	Observations/ qualifications
13	Fair market value of shares u/s 56(2)(viia) / (viib) is not ascertainable	
14	Reports of audits carried by excise / Service tax Department were not made available	
15	GP ratio is not ascertainable from the financial statements prepared by the assessee.	
16	Information regarding demand raised / refund issued during the previous year under any tax laws other than Income-tax Act, 1961 and wealth-tax Act, 1957 was not made available.	
17	Others (Maximum1000 Alphabets)	

Form No. 3CD



PART - A

Clause - 1

1	Name of the assessee
---	----------------------

Format in e-utility

1	Name of the Assessee *	<input type="text"/>	<input type="text"/>
		<input type="text"/>	

As per para 17.1 of revised guidance note 2014

Under clause (1) the name of the assessee whose accounts are being audited under section 44AB should be given. However, if the tax audit is in respect of a branch, name of such branch should be mentioned along with the name of the assessee.

Clause – 2

2	Address
---	---------

Format in e-utility

2	Address of the Assessee *	<input type="text"/>	<input type="text"/>
		<input type="text"/>	<input type="text" value="Select"/>
		<input type="text"/>	

As per para 17.2 of revised guidance note 2014

The address to be mentioned under clause (2) should be the same as has been communicated by the assessee to the Income-tax Department for assessment purposes as on the date of signing of the audit report.

If the tax audit is in respect of a branch or a unit, the address of the branch or the unit should be given.

In the case of a company, the address of the registered office should also be stated.

In the case of a new assessee, the address should be that of the principal place of business.

Clause – 3

3	Permanent Account Number (PAN)
---	--------------------------------

Format in e-utility

3	Permanent Account Number (PAN) *	<input type="text"/>
---	----------------------------------	----------------------

As per para 17.3 of revised guidance note 2014

Under clause (3) the permanent account number (PAN) allotted to the assessee should be indicated.

It may be noted that in the e-filing format PAN is a mandatory field.

Clause – 4

[Amended] vide Notification No. 33/2018 dated 20/07/2018

Whether the assessee is liable to pay indirect tax like excise duty, service tax, sales tax, goods and services tax, customs duty, etc. if yes, please furnish the registration number or GST number or any other identification number allotted for the same.

Format in e-utility

S.NO		Type	Registration /Identification Number
1	<input type="checkbox"/>	<input type="text" value="Select"/>	<input type="text"/>

Implementation Guide w.r.t. Notification No. 33/2018 dated 20.7.2018 effective from 20.8.2018

Clause 4 of Form No. 3CD hitherto required furnishing of information as to whether the assessee is liable to pay indirect tax like excise duty, service tax, sales tax, customs duty, etc.

After sales tax, goods and service tax (“GST”) has also been added to the list of such taxes.

Therefore, the question of whether the assessee is liable to pay goods and service tax needs to be answered, along with liability to pay other indirect taxes.

Implementation Guide w.r.t. Notification No. 33/2018 dated 20.7.2018 effective from 20.8.2018

Even if the liability to pay is only under the reverse charge mechanism, the fact of being liable needs to be answered in the affirmative, with the clarification that such liability is only under the reverse charge mechanism.

In case the assessee is liable to GST, the GST registration number, i.e. the GSTIN needs to be furnished.

Where an assessee has multiple GSTIN numbers, being registered under different states as well as under Central GST, all the GSTIN numbers allotted to the assessee need to be mentioned.

This amendment is merely a clarificatory amendment, as the earlier clause in any case referred to all indirect taxes, by using the term “etc.”

REVISED GUIDANCE NOTE 2014

17.6 The term “Indirect taxes” is neither defined in the Income-tax Act, 1961 nor under any other law.

The levy of different types of indirect taxes on various transactions may differ from State to State.

Thus, it is recommended that the auditor should obtain from the assessee the list of indirect taxes applicable to him.

Once the auditor obtains this management representation, he is required to obtain a copy of the registration certificate clearly mentioning the registration number under that relevant law.

For example, Service tax registration number, Excise registration number, VAT registration number/ Central Sales tax Registration number etc.

REVISED GUIDANCE NOTE 2014

The assessee may have multiple registrations for various manufacturing units, service units, godowns etc under the same law.

In such circumstances also, a copy of all registration certificates is to be obtained from the assessee for appropriate disclosure under this clause.

Where the indirect tax law does not require any registration, appropriate identification number may be reported in this clause.

For example, in Customs Act, 1962, since there is no registration number, a copy of Export Import Code (IEC) may be obtained and information be accordingly furnished.

CLAUSE NO. 4 - In the Utility, the following format is prescribed:

Sl No	Type	Registration / Identification Number
	Central Excise Duty	
	Central Custom Duty	
	Service Tax	
	Goods and Service Tax	
	Sales Tax / VAT	
	State Excise Duty	
	Other Indirect Tax / duty	

One can add further rows as per requirement – no limitation

CLAUSE NO. 5

5	Status
---	--------

Format in e-utility

5	Status *	<div>Select</div> <div>Individual</div> <div>HUF</div> <div>Firm</div> <div>LLP</div> <div>Company</div> <div>Trust</div> <div>AOP/BOI</div> <div>Local Authority</div> <div>Artificial Juridical Person</div> <div>Co-Operative Society</div> <div>Co-Operative Bank</div>
---	----------	---

As per para 17.9 of revised guidance note 2014

Under clause (5) the status of the assessee is to be mentioned. Obviously this refers to the different classes of assessee included in the definition of “person” in section 2 (31) of the Act, namely, individual, Hindu undivided family, company, firm, an association of persons or a body of individuals whether incorporated or not, a local authority or artificial juridical person.

CLAUSE NO. 6

6	Previous year from.....to.....
---	--------------------------------

Format in e-utility

6	Previous year from*		to	
---	---------------------	--	----	--

As per para 17.10 of revised guidance note 2014

Under clause (6) the period of the previous year has to be stated. Since the previous year under the Act now uniformly begins on 1st April and ends on 31st March, the relevant previous year should be mentioned.

In case of amalgamations, demergers, reconstitution, new business, closure of existing business etc the date of beginning/ ending of the previous year may be different, the auditor may accordingly, mention the relevant date of beginning and ending of the previous year in this clause.

Hence, the tax auditor has to apply his professional judgement depending on the facts and circumstances of the same.

CLAUSE NO. 7

7	Assessment year
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7	Assessment year *	<input type="text"/>
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As per para 17.11 of revised guidance note 2014

Under clause (7) the assessment year relevant to the previous year for which the accounts are being audited should be mentioned.

CLAUSE NO. 8

8	Indicate the relevant clause of section 44AB under which the audit has been conducted
---	---

Format in e-utility

8	Indicate the relevant clause of section 44AB under which the audit has been conducted *										
<table border="1"><thead><tr><th>S.No.</th><th></th><th>Relevant clause of section 44AB under which the audit has been conducted</th></tr></thead><tbody><tr><td>1</td><td><input type="checkbox"/></td><td><div><div>Select</div><div><div>Clause 44AB(a)- Total sales/turnover/gross receipts in business exceeding Rs. 1 crore</div><div>Clause 44AB(b)- Gross receipts in profession exceeding Rs.50 lakhs</div><div>Clause 44AB(c)-i- Profits and gains lower than deemed profit u/s 44AE</div><div>Clause 44AB(c)-ii- Profits and gains lower than deemed profit u/s 44BB</div><div>Clause 44AB(c)-iii- Profits and gains lower than deemed profit u/s 44BBB</div><div>Clause 44AB(d)- Profits and gains lower than deemed profit u/s 44ADA</div><div>Clause 44AB(e)- Profits and gains lower than deemed profit u/s 44AD</div><div>Third Proviso to sec 44AB : Audited under any other law</div></div></div></td></tr><tr><td colspan="2"><div><div>+ Add</div><div>X Delete</div></div></td><td></td></tr></tbody></table>			S.No.		Relevant clause of section 44AB under which the audit has been conducted	1	<input type="checkbox"/>	<div><div>Select</div><div><div>Clause 44AB(a)- Total sales/turnover/gross receipts in business exceeding Rs. 1 crore</div><div>Clause 44AB(b)- Gross receipts in profession exceeding Rs.50 lakhs</div><div>Clause 44AB(c)-i- Profits and gains lower than deemed profit u/s 44AE</div><div>Clause 44AB(c)-ii- Profits and gains lower than deemed profit u/s 44BB</div><div>Clause 44AB(c)-iii- Profits and gains lower than deemed profit u/s 44BBB</div><div>Clause 44AB(d)- Profits and gains lower than deemed profit u/s 44ADA</div><div>Clause 44AB(e)- Profits and gains lower than deemed profit u/s 44AD</div><div>Third Proviso to sec 44AB : Audited under any other law</div></div></div>	<div><div>+ Add</div><div>X Delete</div></div>		
S.No.		Relevant clause of section 44AB under which the audit has been conducted									
1	<input type="checkbox"/>	<div><div>Select</div><div><div>Clause 44AB(a)- Total sales/turnover/gross receipts in business exceeding Rs. 1 crore</div><div>Clause 44AB(b)- Gross receipts in profession exceeding Rs.50 lakhs</div><div>Clause 44AB(c)-i- Profits and gains lower than deemed profit u/s 44AE</div><div>Clause 44AB(c)-ii- Profits and gains lower than deemed profit u/s 44BB</div><div>Clause 44AB(c)-iii- Profits and gains lower than deemed profit u/s 44BBB</div><div>Clause 44AB(d)- Profits and gains lower than deemed profit u/s 44ADA</div><div>Clause 44AB(e)- Profits and gains lower than deemed profit u/s 44AD</div><div>Third Proviso to sec 44AB : Audited under any other law</div></div></div>									
<div><div>+ Add</div><div>X Delete</div></div>											

CLAUSE 8

The relevant clauses of Audit U/s 44AB are as follows:

44AB(a) carrying on business if total sales, turnover or gross receipts, exceeds one crore rupees.

44AB(b) carrying on profession if gross receipts exceed Fifty lakh rupees

CLAUSE 8

- 44AB(c) Carrying on the business referred to in sections 44AE or 44BB or 44BBB and claiming his income from any such business to be lower than the income prescribed under the relevant section; or
- 44AB(d) carrying on the [profession] shall, if the profits and gains from the [profession] are deemed to be the profits and gains of such person under [section 44ADA] and he has claimed such income to be lower than the profits and gains so deemed to be the profits and gains of his [profession] and his income exceeds the maximum amount which is not chargeable to income-tax in any [previous year; or]
- 44AB(e) carrying on the business shall, if the provisions of sub-section (4) of section 44AD are applicable in his case and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year,

CLAUSE 8

Relevant clause of section 44AB under which the tax audit has been conducted

The Auditor has to report under which clause of Tax Audit, the Audit has been conducted.

The Auditor has to report if the Audit is of Business or Profession or under Presumptive taxation scheme.

CLAUSE NO. 8 – Relevance of distinction between Business & Profession:

Section 2(13) defines business :

“Business” includes any trade, commerce, or manufacture or any adventure or concern in the nature of trade, commerce or manufacture.

Section 2(36) defines Profession :

“Profession” includes vocation

Whether a particular activity can be classified as ‘business’ or ‘Profession’ will depend on the facts and circumstances of the each case – **CIT v. Manmohan Das (Deceased) (1966) 59 ITR 699 (SC)**

All professions are businesses, but all businesses are not professions. Only those businesses are professions the profit of which are dependent mainly upon the personal qualification and in which no capital expenditure is required or only capital expenditure of comparatively small amount – **P. Stanwill & Co. v/s. CIT (1952) 22 ITR 316, 320-21 (All)**

Clause no. 8(a)

{Inserted in Form-3cd updated on 22.10.2020, Subs. vide Rules, 2021}

Indicate the option for taxation under Section 115BA/ 115BAA/ 115BAB/ 115BAC/ 115BAD, which are applicable for Companies and Individual and HUF

Brief : Whether the company has opted for taxation under section 115BA / 115BAA / 115BAB?

- If NO, then it disables the section showing in the drop-down menu.
- If YES, it will show the section under which the assessee company going to opt for tax purposes. The screenshot is given below:

8(a)	Whether the assessee has opted for taxation under section 115BA/115BAA/115BAB *	Yes
	Section under which option exercised	<div>Select 115BA 115BAA 115BAB</div>

Analysis of Section 115BA

- This Section was inserted vide Finance Act, 2016 w.e.f. 01/04/2017, and was specifically applicable to the manufacturing domestic companies w.e.f. 01/04/2020.
- The said section provided for the Special Tax Rate i.e. 25% for the certain domestic manufacturing company subject to the provisions of Chapter XII, excluding Sec 115BAA and 115BAB of the act.
- However, a proviso was inserted vide Taxation Laws (Amendment), Act, 2019 w.e.f 01/04/2020, whereby it was laid that if a person exercises the option provided in Section 115BAA of the act, then the option under this section may be withdrawn.

Analysis of Section 115BAA

- This section provides for Tax on Income of certain domestic companies at their option, at the rate of 22% and was inserted vide The Taxation Laws Amendment Act 2019 with effect from Assessment year 2020-2021.
- The loss and depreciation referred to in clause (ii) and clause (iii) of sub-section (2) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year.
- For the purpose of this section, the income of the company shall be computed as follows :
 - Without any deduction under the provisions of section 10AA, clause (iia) of sub-section (1) of section 32, section 32AD, section 33AB, section 33ABA, sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) or sub-section (2AB) of section 35, section 35AD, section 35CCC, section 35CCD, under any provisions of section 78[Chapter VI-A under the heading “C.—Deductions in respect of certain incomes” other than the provisions of section 80JJAA]
 - without set off of any loss carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred above.
 - without set off of any loss or allowance for unabsorbed depreciation deemed so under section 72A, if such loss or depreciation is attributable to any of the deductions referred above.
 - by claiming the depreciation, if any, under any provision of section 32, except clause (iia) of sub-section (1) of the said section, determined in such manner as may be prescribed

Analysis of Section 115BAB

- This section provides for Tax on Income of new manufacturing domestic companies at their option, at the rate of 15% and was inserted vide The Taxation Laws Amendment Act 2019 with effect from Assessment year 2020-2021.
- There is no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of machinery or plant by the person.
- As per provisions laid in the act, the option for the tax rate of 15% could be exercised, subject to the conditions as follows:
 - The company has been set-up and registered on or after the 1st day of October, 2019, and has commenced manufacturing or production of an article or thing on or before the 31st day of March, 2023.
 - The business is not formed by splitting up, or the reconstruction, of a business already in existence: Does not use any machinery or plant previously used for any purpose.(Plant or machinery should be new). Exception: 20% of total Plant and machinery can be second hand.
 - Company does not use any building previously used as a hotel or a convention centre, as the case may be, in respect of which deduction under section 80-ID has been claimed and allowed.
 - The company is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it.

Analysis of Section 115BAB

- For the purpose of this section, the income of the company shall be computed as follows :
 - Without any deduction under the provisions of section 10AA, clause (iia) of sub-section (1) of section 32, section 32AD, section 33AB, section 33ABA, sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) or sub-section (2AB) of section 35, section 35AD, section 35CCC, section 35CCD, under any provisions of section 78[Chapter VI-A under the heading “C.—Deductions in respect of certain incomes” other than the provisions of section 80JJAA]
 - without set off of any loss carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred above.
 - without set off of any loss or allowance for unabsorbed depreciation deemed so under section 72A, if such loss or depreciation is attributable to any of the deductions referred above.
 - by claiming the depreciation, if any, under any provision of section 32, except clause (iia) of sub-section (1) of the said section, determined in such manner as may be prescribed

Analysis of Section 115BAC

- The Section 115BAC of the act was inserted vide Finance Act, 2021 and is applicable from the AY 2021-22 onwards, which deals with new income tax regime in the case of individuals and Hindu Undivided Families (HUFs) only. Further, vide the new tax regime income tax slab rates have been significantly reduced, however the new rates come at the cost of various key income tax exemptions and deductions, which are currently available under the old (existing) income tax regime.
- The following table shows the new slab rates as per Section 115BAC:

Annual Income	New Income Tax Slab Rate
Nil to Rs. 2.5 lakh	Exempt
Above Rs. 2.5 lakh to Rs. 5 lakh	5%
Above Rs. 5 lakh to Rs. 7.5 lakh	10%
Above Rs. 7.5 lakh to Rs. 10 lakh	15%
Above Rs. 10 lakh to Rs. 12.5 lakh	20%
Above Rs. 12.5 lakh to Rs. 15 lakh	25%
Above Rs. 15 lakh	30%

Analysis of Section 115BAC

- As per provisions laid in this newly inserted section of the act, the option for the lower tax rate could be exercised, subject to the conditions as follows:
- It is calculated without any exemptions or deductions provided under the following

Major Deductions under Chapter VIA (u/s <u>80C</u> , 80CCC, 80CCD, 80DD, 80DDB, <u>80E</u> , 80EE, 80EEA, 80G, 80IA, etc)	<u>House Rent Allowance</u> (HRA) u/s 10(13A)	Home Loan Interest u/s 24(b)
<u>Standard Deduction</u>	Leave Travel Allowance u/s 10(5)	Deduction for Donation or Expenditure on Scientific Research
Allowances u/s 10(14)	Deduction for Entertainment Allowance and Employment/Professional Tax u/s 16	Depreciation u/s 32(ia)
Deductions u/s 32AD, 33AB, 33ABA, 35AD, 35CCC	Exemption for SEZ unit u/s 10AA	Deduction from Family Pension u/s 57(ia)

Analysis of Section 115BAC

- While most of the income tax deductions have been discontinued under the new income tax regime (as mentioned in the earlier section), the following deductions are allowed:

Deduction u/s <u>80CCD</u>(2) (employer's contribution to your pension account)	Deduction u/s 80JJAA (additional employee cost)	Transport Allowance for Differently Abled Employees (Divyang)
Conveyance Allowance for Performance of Office Duties	Any Allowance for the Cost of Travel/ Tour/ Transfer	Daily Allowance given to Employees under Certain Conditions

Analysis of Section 115BAD

- The Section 115BAD of the act was inserted vide Finance Act, 2021 and is applicable from the AY 2021-22 onwards, which deals with new income tax regime in the case of CO-OPERATIVE SOCIETIES only. This section provides for Tax on Income of new manufacturing domestic companies at their option, at the rate of 22%, notwithstanding anything contained in this act but subject to the provisions of the Chapter XII.
- As per provisions laid in this newly inserted section of the act, the option for the lower tax rate could be exercised, subject to the conditions as follows—
 - There is no time limit to exercise option u/s 115BAD for the benefit of a lower tax rate. However, the option to avail of the benefit of section 115BAD must be exercised on or before the due date specified under Section 139(1) for furnishing of the first return of income in the prescribed manner.
 - This option once exercised cannot be withdrawn subsequently.
 - The total income of the cooperative society has been computed without claiming a specified deduction, exemption or incentives(the list of the same is given below).
 - The Co-operative Societies shall also not be allowed to set off brought forward losses and depreciation from any earlier assessment years if such losses or depreciation is attributable to the deductions mentioned in the list as follows:

Sections	Deductions
Section 10AA	Deduction for units established in Special Economic Zones (SEZ)
Section 32(1)(ia)	Additional Depreciation
Section 32AD	Deduction for investment in new plant and machinery in notified backward areas
Section 33AB	Deduction in respect of tea, coffee or rubber business
Section 33ABA	Deduction in respect of business consisting of prospecting or extraction or production of petroleum or natural gas in India
Section 35(1)(ii)	Deduction for donation made to approved scientific research association, university college or other institutes for doing scientific research which may or may not be related to business
Section 35(1)(ia)	Deduction for payment made to an Indian company for doing scientific research which may or may not be related to business
Section 35(1)(iii)	Deduction for donation made to the university, college, or other institution for doing research in social science or statistical research
Section 35(2AA)	Deduction for donation made to National Laboratory or IITs, etc. for doing scientific research which may or may not be related to business
Section 35AD	Deduction in respect of capital expenditure incurred in respect of certain specified businesses, i.e., cold chain facility, warehousing facility, etc.
Section 35CCC	Deduction for expenditure on the agriculture extension project
Chapter VI-A	Any Provision of Chapter VI-A Deduction in respect of certain incomes other than specified under Section 80JJAA

Analysis of Section 115BAD

- If the Co-Operative Societies fail to satisfy any of the conditions while computing their income in any of the previous years. The option shall become invalid in respect of the assessment year relevant to the previous year and subsequent assessment years and other provisions of the act shall apply as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.
- The Resident Co-Operative Society exercising the option to apply section 115BAD in computing its income is required to furnish in Form no. 10-IF. Such form shall be furnished electronically using the digital signature or Electronic Verification Code(EVC).

PART - B

CLAUSE – 9

9. (a) If firm or association of persons, indicate names of partners/members and their profit sharing ratios.

(b) If there is any change in the partners or members or in their profit sharing ratio since the last date of the preceding year, the particulars of such change

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9 (a) If firm or Association of Persons, indicate names of partners/ members and their profit sharing ratios.

In case of AOP, whether shares of members are indeterminate or unknown ?

S.No.		Name	Profit Sharing Ratio (%)
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>

9 (b) If there is any change in the partners or members or in their profit sharing ratio since the last date of the preceding year, the particulars of such change.

S.No.		Date of change	Name of Partner/Member	Type of change	Old profit sharing ratio	New profit Sharing Ratio	Remarks
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="Select"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

As per para 18.1 of revised guidance note 2014

Where the assessee is a firm or association of persons (AOP) or body of individuals, the names of partners of the firm or members of the association of persons or body of individuals and their profit sharing ratios (%) have to be stated.

In case where the partner of a firm or the member of AOP/ BOI acts in a representative capacity, the name of the beneficial partner/member should be stated.

Thus, the details of partners or members during the entire previous year will have to be furnished.

The term “profit sharing ratios” would include loss-sharing ratio also since loss is nothing but negative profits.

This would not cover any specific ratio or understanding in relation to payment of remuneration or interest to partners or members.

In this connection, reference may be made to Circular No.739 dated 25.3.1996 issued by the Board reproduced in *Appendix XI (Page no. 269)*.

As per para 18.2 of revised guidance note 2014

If there is any change in the partners of the firm or members of the association of persons/ body of individuals or their profit or loss sharing ratio since the last date of the preceding year, the particulars of such change must be stated.

All the changes occurring during the entire previous year must be stated.

As per para 18.3 of revised guidance note 2014

The particulars in this clause should be verified from the instrument or agreement or any other document evidencing partnership or association of persons including any supplementary documents or other documents effecting such changes. For this purpose, the tax auditor may also verify:

- (i) in case of registered firms (including Indian LLPs), whether the relevant documents have been filed with the concerned authorities,
- (ii) whether notice of changes, if required, has been given to the registrar of firms, and
- (iii) any minutes or any other understanding recording any changes in the partners/members or their profit sharing ratios.

As per para 18.4 & 18.5 of revised guidance note 2014

The tax auditor should obtain certified copies of the deeds, documents, understanding, notice of changes etc. including certified copies of the acknowledgment, if any, evidencing filing of documents with the concerned authorities, if registered.

In certain cases of association of persons or body of individuals, it may be possible that the shares of the members are not precisely ascertainable during the previous year resulting in a situation whereby the shares of the members are indeterminate or unknown. In such circumstances, the relevant fact should be stated.

As per para 18.6 of revised guidance note 2014

As per section 2(23) of the Income-tax Act, 1961 the term “Firm” shall have the meaning assigned to it in the Indian Partnership Act, 1932, and shall include a Limited Liability partnership firm as defined in Limited Liability Partnership Act, 2008.

CLAUSE – 10

10. (a) Nature of business or profession (if more than one business or profession is carried on during the previous year, nature of every business or profession)

(b) If there is any change in the nature of business or profession, the particulars of such change.

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10 (a) Nature of business or profession (if more than one business or profession is carried on during the previous year, nature of every business or profession).

S.No.		Sector	Sub Sector	Code
1	<input checked="" type="checkbox"/>	Select	Select	
<div><input type="button" value="+ Add"/> <input type="button" value="X Delete"/></div>				

S No	Sector	Total Sub Sector
1	Agriculture, Animal Husbandry, Forestry	18
2	Computer Related Service	10
3	Construction	10
4	Culture & Sport	24
5	Education Services	7
6	Electricity, Gas & Water	4
7	Extra Territorial Organisations/Bodies	1
8	Financial Services	18
9	Fish Farming	6
10	Health Care	17
11	Hotels, Restaurants, Hospitality	12

S No	Sector	Total Sub Sector
12	Manufacturing	99
13	Mining & Quarrying	16
14	Other Services	8
15	Post & Telecom	6
16	Profession	19
17	R&D	3
18	Real Estate & Renting	5
19	Renting of Machinery	9
20	Social & Community Work	9
21	Transport & Logistics	15
22	Wholesale / Retail Trade	27
		343

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10.(b) If there is any change in the nature of business or profession, the particulars of such change.

S.No.		Business*	Sector		b Sector	Code
1	<input type="checkbox"/>	Select	Select	<div>Select Select YES NO</div>	Select	
<div><div>+ Add</div><div>✖ Delete</div></div>						

As per para 19.1 & 19.2 of revised guidance note 2014

In regard to the nature of business, the principal line of each business is to be determined and stated in this clause, i.e. the sector in which the business or profession falls such as manufacturing, trading, commission agent, builder, contractor, professionals, service sector, financial service sector or entertainment industry.

In case of a person belongs to service sector the nature of each type of service should be broadly stated.

Thereafter, the auditor is required to mention the sub-sector pertaining to the sector selected.

Information has to be furnished in respect of each business.

The code to be mentioned against the nature of business pertains to the main area of business activity.

As per para 19.3 of revised guidance note 2014

Any material change in the nature of business should be precisely set out.

The change will include change from manufacturer to trader as well as change in the principal line of business.

For example, an assessee switching over from wholesale business to retail business or an assessee switching over from manufacturing his own commodities to manufacturing goods on job basis for others.

Likewise, any addition to or permanent discontinuance of, a particular line of business may also amount to change requiring reporting.

However, temporary suspension of the business may not amount to change and therefore need not be reported.

As per para 19.4, 19.5 & 19.6 of revised guidance note 2014

19.4 A review of business report or the minutes of meetings would enable the tax auditor to note the changes, if any. Based thereon, he may make necessary enquiries and seek information and determine whether any change has occurred or not. If need be, the tax auditor should get a declaration from the assessee regarding change in the nature of business, if any.

19.5 In the case of business reorganization/ reconstruction if there is a similar line of activity, no reference needs to be made. However, if a new line of activity emerges because of business reorganization/ reconstruction, the same may be stated. In the case of restructuring, if any line of activity is being hived off, the same may also be reported.

19.6 The auditor should keep in mind the above guidance while furnishing information under this clause in the format provided for in the e-filing utility.

Issues on Clause no. 10

- **Permanent discontinuance** of a particular product line of business need to be reported, **not temporary suspension**.
- Effect on Carry forward of losses :- From A.Y. 2000-01 losses will be carried forward, even if the Business or Profession is discontinued (*Sec 72(1)(i)*)

Clause – 11

11. (a) Whether books of account are prescribed under section 44AA, if yes, list of books so prescribed.

(b) **List of books of account maintained and the address at which the books of accounts are kept.** (In case books of account are maintained in a computer system, mention the books of account generated by such computer system. **If the books of accounts are not kept at one location, please furnish the addresses of locations along with the details of books of accounts maintained at each location.**)

(c) List of books of account **and nature of relevant documents** examined.

Clause – 11

11 (a) Whether books of accounts are prescribed under section 44AA, if yes, list of books so prescribed.

Format in e-utility

S.No.		Books prescribed
1	<input type="checkbox"/>	<input type="text"/>
<div><input type="button" value="+ Add"/> <input type="button" value="X Delete"/></div>		

Clause – 11

(b) **List of books of account maintained and the address at which the books of accounts are kept.** (In case books of account are maintained in a computer system, mention the books of account generated by such computer system. **If the books of accounts are not kept at one location, please furnish the addresses of locations along with the details of books of accounts maintained at each location.**)

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☐ Same as 11(a) above

S.No.		Books maintained	Address Line 1	Address Line 2	City or Town or District	State	PinCode
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Select <input type="text"/>	<input type="text"/>
<div><input type="button" value="+ Add"/> <input type="button" value="X Delete"/></div>							

Clause – 11

(c) List of books of account and nature of relevant documents examined.

Format in e-utility

☐ Same as 11(b) above

S.No.		Books examined
1	<input type="checkbox"/>	<input type="text"/>
<div><input type="button" value="+ Add"/> <input type="button" value="X Delete"/></div>		

Section - 44AA

Specified profession referred u/s 44AA(1)

If Gross Receipt exceeds 1.5 Lakh
[Rule 6F(1)]

Books prescribed in rule 6F(2) & 6F(3)

If Gross Receipt does not exceeds 1.5 Lakh

No Books Mandatory

Persons other than referred in Section 44AA(1)

If Assessee is Individual or HUF[#]

If T/O or Gross Receipts exceeds Rs. 25 Lakh or Income exceeds Rs. 2.50 Lakh*

Any Books \$

If T/O or Gross Receipts is upto Rs. 25 Lakh or Income is upto Rs. 2.50 Lakh*

No Books Mandatory

If Assessee is other than Individual or HUF[#]

If T/O or Gross Receipts exceeds Rs. 10 Lakh or Income exceeds Rs. 1.20 Lakh

Any Books \$

If T/O or Gross Receipts is upto Rs. 10 Lakh or Income is upto Rs. 1.20 Lakh

No Books Mandatory

Analysis of Section 44AA

Note:

***For Individual & HUF - Limit for total Income was Rs.1,20,000/- & for T/O or Gross Receipt was Rs.10,00,000/- [prior to Finance Act, 2017 (w.e.f . 01-04-2018)]**

For limits in relation to Gross Receipts or Turnover –

(A) For Newly Setup Business – For computing threshold limits the Turnover or Gross Receipts shall be considered for that year only.

(B) For Other Business – For computing threshold limits the Turnover or Gross Receipts shall be Limits Shall be considered for three years immediately preceding the P.Y. and books will be required to maintain if such threshold is fulfilled in any one of three years.

\$ Any books: means the books so as to enable the AO to compute his total income in accordance with the provisions of this Act.

Where gross professional receipts in 1 of 3 years preceding the previous year in question have not exceeded Rs.1,50,000, assessee is not required to maintain books of account for that previous year even though such gross receipts have exceeded Rs.1,50,000 in the other 2 preceding years. **A. Keshava Bhat v. ITO [2001] 237 ITR 83 (Kar.)**

Meaning of Books of account and Document – Sec.2(12A) & Sec 2(22AA)

The expression ‘books of account’ is defined to include ledgers, day books, cash books, account books and other books, whether kept in the written form or as print outs of data stored in a floppy, disc, tape or any other form of electro-magnetic data storage device – sec.2(12A).

The term ‘document’ includes an electronic record as defined under section 2 of the information technology Act, 2000- Sec 2(22AA).

Meaning of Electronic record as per Section 2(1)(t) of the Information Technology Act, 2000 as referred above is reproduced below:

“Electronic record” means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche.

IS THE DATA KEPT IN ELECTRONIC FORMAT CONSIDERED AS BOOKS OF ACCOUNTS?

Section 4 of the Information Technology Act, 2000 states that “Where any law provides that information or any other matter shall be in writing or in the typewritten or printed form, then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied if such information or matter is-

- (i) rendered or made available in an electronic form; and
- (ii) accessible so as to be usable for a subsequent reference.”

Prescribed Books Under Rule F

Books to be maintained by persons referred in Section 44AA(1) [Rule 6F(2)]

- Cash book
- Journal (if the accounts are kept on mercantile bases)
- Ledger
- Serial numbered carbon copies of the bills and receipts issued
- Original purchase bill/payment vouchers.

For a person carrying on medical profession is required to keep the following apart from the aforesaid books of accounts :

A daily case register in Form No. 3C and an inventory of stock of drugs, medicines & other consumable accessories used for his profession as on the 1st & last day of the P.Y. For clarification, these do not constitute books of accounts & thus, same need not be mentioned under Clause 11(a). **[RULE 6F (3)]**

Issue: Profession of CS & IT are not covered under rule 6F(1), therefore they are not required to maintain books of account as prescribed under rule 6F(2). However, they have to maintain books of Account as prescribed under the definition of “Books or Books of Account u/s 2(12A).

- ▶ Prescribed books of account are to be kept at the place of profession or principal place of profession, if carried at more than one place **[RULE 6F (4)]**
- ▶ To be maintained for a period of **6 years** from the end of the relevant assessment year. **[RULE 6F (5)]**

Note: Any books means the books so as to enable the Assessing Officer to compute his total income in accordance with the provisions of this Act.

Specified Profession

- Legal,
- medical,
- engineering,
- accountancy,
- architectural profession,
- technical consultancy,
- interior decoration or
- other notified profession.

➤ **Notified Specified Profession**

Authorized representative and **film artist** - vide notification : No. SO 17(E), dated 12-1-1977

Company Secretary – vide Notification : No. SO 2675, dated 25-9-1992

Profession of information technology – vide Notification : No. SO 385(E), dated 4-5-2001

Minutes, Statutory Registers and Records of the Company are required to be maintained for more than 8 (Eight) Years?

As per sub section 5 of section 128 of the Companies Act, 2013, the books of accounts of every company relating to a period of not less than 8 (Eight) financial years immediately preceding a financial year shall be maintained.

However with regard to minutes and statutory registers and records it shall be maintained by the company since inception. Since minutes and statutory records are the principal documents of the company that needs to be maintained and preserved.

Form 3CD – Clause 11(b) – address – books

- ▶ Books are maintained in Cloud based software
- ▶ Location of data entry and location of storage are different.
– e.g. cloud based software
- ▶ Name and address of cloud service provider
- ▶ Invoicing at depot = document and not books of account

What does the location mean?

- ▶ The location from which data entry is made or where the accounts are accessible.
- ▶ What does the word “kept” mean in the context of ERP/SAP?

AS PER REVISED GUIDANCE NOTE 2014

20.8 From AY 2014-15, the address at which the books so maintained are kept is also required to be mentioned under clause (b).

In case the books of accounts are kept at more than one location then the auditor is required to mention the details of address of each such location along with the detail of books of account maintained thereof.

AS PER REVISED GUIDANCE NOTE 2014

The auditor is advised to obtain from the assessee a list in the following format and accordingly report the same in clause 11(b).

In case of a company assessee auditor should also verify as to whether any forms are filed under the Companies Act for maintenance of books of accounts at a place other than the registered office:

Sr. No.	Principal Place of Maintenance of Books of Accounts	Details of books maintained
1	2	3

AS PER REVISED GUIDANCE NOTE 2014

20.9 In case, where books of accounts are maintained and generated through computer system, the auditor should obtain from the assessee the details of address of the place where the server is located or the principal place of business/Head office or registered office by whatever name called and mention the same accordingly in clause 11(b).

14.3 The auditor is required to examine not only the books of accounts but also other relevant documents directly related to transactions reflected in the books of accounts like original purchase invoice, copy of bank statements, bills, vouchers, various agreements / contracts or any other document on the basis of which preliminary entries are passed in the books of accounts.

Clause – 11(b) Sample Reporting

List of locations where books of accounts and other records are maintained.

S. No	Location identifier	Full address of Location
1	HO	No. 18/1,1 st Main Road, K.G Nagar, Bangalore – 560 019
2	BO	18, Church Street, M.G ROAD, Bangalore – 560 001
3	Factory Division	No. 122, 3 rd Cross, Austin Town, BDA Layout, Bangalore – 560 047.
4	SEZ Division	47, 9 th Cross, Indiranagar, Bangalore - 560 048

CLAUSE 11(c)

What does “nature of relevant documents” mean?

- List of documents is not required – only nature

Examples of relevant documents

- ✓ Bills / Invoices / Receipts issued / received by assessee
- ✓ Credit / Debit Notes issued / received by assessee
- ✓ Statutory registers maintained under various laws
- ✓ Contracts / agreements entered into by the assessee
- ✓ Correspondence between the assessee and others
- ✓ Third party confirmations / statements of account

- ✓ Fixed assets register
- ✓ Payroll records
- ✓ Lease Deed
- ✓ VAT Audit report
- ✓ Cost audit report
- ✓ Excise audit report
- ✓ Service tax audit report
- ✓ Sale deed of property pur/sold
- ✓ Board minutes
- ✓ VAT / Excise / Service Tax returns
- ✓ TDS returns

In the utility, there is no separate section or drop down list for “nature of documents”

Clause – 12

12. Whether the profit and loss account includes any profits and gains assessable on presumptive basis, if yes, indicate the amount and the relevant section (44AD, 44ADA, 44AE, 44AF, 44B, 44BB, 44BBA, 44BBB, Chapter XII-G, First Schedule or any other relevant section.)

Format in e-utility

S.No.		Section	Amount
1	<input type="checkbox"/>	<input type="text" value="Select"/>	<input type="text"/>

As per para 21.1 of revised guidance note 2014

Where the profits and gains of the business are assessable to tax under presumptive basis under any of the sections mentioned below, the amount of such profits and gains credited/debited to the profit and loss account should be indicated under this clause:

S No	Section	Business covered
1	44AD	Eligible business
2	44ADA	Special provision for computing profits and gains of profession on presumptive basis
3	44AE	Transport business
4.	44AF	Retail Business (<i>This Section is inoperative w.e.f. A.Y 2011-2012 and covered in s.44AD itself</i>)
5	44B	Shipping business of a non-resident
6	44BB	Providing service or facilities in connection with, or supplying plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils

S No	Section	Business covered
7	44BBA	Operation of aircraft by non-resident
8	44BBB	Civil construction etc. in certain turnkey power project by non-residents
9	Chapter XII-G	Special provisions relating to Shipping Companies (Section 115V to 115VT)
10	First Schedule	Insurance Business
11	Any other relevant section	This refers to the sections not listed above under which income may be assessable on presumptive basis like section 44D and section 115A(1)(b) and will include any other section that may be enacted in future for presumptive taxation

The auditor needs to verify if the profit and loss account includes any of the income assessable on presumptive basis. There could be few different scenarios such as:

1. Books of Accounts not separately maintained for both the businesses

Ascertainment of correct profit in respect of business covered under PRESUMPTIVE SCHEME should be done by tax auditor by arriving at a fair and reasonable estimate of the expenditure based on the evidence in possession of the assessee or by asking the assessee to prepare such estimate which should be checked (basis of apportionment of common expenditure should be stated).

However, if the tax auditor is not satisfied with the reasonableness of such apportionment, he should indicate such fact under this clause by a suitable note.

2: Books of Accounts separately maintained

In case separate set of books of accounts are maintained, it poses no problem for the tax auditor in ascertaining the amount of profit to be disclosed.

3: Business under presumptive scheme is additional business and no separate books are maintained for the same

Since the books of account are not maintained for the business covered in presumptive scheme, the Tax Auditor will be unable to find out the correctness of the net income credited and he should give a suitable note expressing his inability to verify the said figure.

Since the Tax Auditor is not able to form his opinion as to true and fair view of the accounts of the assessee, it would be necessary for him to qualify his audit report in Form no 3CB.

Clause – 13

13. (a) Method of accounting employed in the previous year

(b) Whether there had been any change in the method of accounting employed vis-a-vis the method employed in the immediately preceding previous year.

(c) If answer to (b) above is in the affirmative, give details of such change, and the effect thereof on the profit or loss.

Serial number	Particulars	Increase in profit (Rs.)	Decrease in profit (Rs.)

(d) Whether any adjustment is required to be made to the profits or loss for complying with the provisions of income computation and disclosure standards notified under section 145(2)

(e) if answer to (d) above is in the affirmative, give details of such adjustments:

		Increase in profit (Rs.)	Decrease in profit (Rs.)	Net Effect (Rs.)
<i>ICDS I</i>	<i>Accounting Policies</i>			
<i>ICDS II</i>	<i>Valuation of Inventories</i>			
<i>ICDS III</i>	<i>Construction Contracts</i>			
<i>ICDS IV</i>	<i>Revenue Recognition</i>			
<i>ICDS V</i>	<i>Tangible Fixed Assets</i>			
<i>ICDS VI</i>	<i>Changes in Foreign Exchange Rates</i>			
<i>ICDS VII</i>	<i>Governments Grants</i>			
<i>ICDS VIII</i>	<i>Securities</i>			
<i>ICDS IX</i>	<i>Borrowing Costs</i>			
<i>ICDS X</i>	<i>Provisions, Contingent Liabilities and Contingent Assets</i>			

(f) Disclosure as per ICDS

(i)	<i>ICDS I</i>	<i>Accounting Policies</i>
(ii)	<i>ICDS II</i>	<i>Valuation of Inventories</i>
(iii)	<i>ICDS III</i>	<i>Construction Contracts</i>
(iv)	<i>ICDS IV</i>	<i>Revenue Recognition</i>
(v)	<i>ICDS V</i>	<i>Tangible Fixed Assets</i>
(vi)	<i>ICDS VII</i>	<i>Governments Grants</i>
(vii)	<i>ICDS IX</i>	<i>Borrowing Costs</i>
(viii)	<i>ICDS X</i>	<i>Provisions, Contingent Liabilities and Contingent Assets</i>

Clause – 13

Format in e-utility

13 (a) Method of accounting employed in the previous year.

Select ▼

Select

Cash system

Mercantile system

(b) Whether there had been any change in the method of accounting employed vis-a-vis the method employed in the immediately preceding previous year.

Select ▼

Select

YES

NO

Clause – 13

Format in e-utility

(c) If answer to (b) above is in the affirmative, give details of such change , and the effect thereof on the profit or loss.

S.No.		Particulars	Increase in profit	Decrease in profit
1	<input type="checkbox"/>			

(d) Whether any adjustment is required to be made to the profits or loss for complying with the provisions of income computation and disclosure standards notified under section 145(2).

Select ▼

Select

YES

NO

Clause – 13

Format in e-utility

(e) If answer to (d) above is in the affirmative, give details of such adjustments:

S.No.		ICDS	Increase in profit (Rs.)	Decrease in profit (Rs.)	Net effect (Rs.)
1	<input type="checkbox"/>	<input type="text" value="Select"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0"/>
Total			<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>

Clause – 13

Format in e-utility

(f) Disclosure as per ICDS:

S.No.		ICDS	Disclosure
1	<input type="checkbox"/>	<div>Select</div> <div><div><div>+ Add</div><div>✖ Delete</div></div><div><div>Select</div><div>ICDS I-Accounting Policies</div><div>ICDS II-Valuation of Inventories</div><div>ICDS III-Construction Contracts</div><div>ICDS IV-Revenue Recognition</div><div>ICDS V-Tangible Fixed Assets</div><div>ICDS VII-Governments Grants</div><div>ICDS IX Borrowing Costs</div><div>ICDS X-Provisions, Contingent Liabilities and Contingent Assets</div></div></div>	

In clause 13(f) of 3CD we can insert only upto 500 characters. (As per Winmann Software)

• (f) Disclosures as per ICDS

Disclosures as per ICDS	
ICDS	Disclosure
Accounting Policies (ICDS I)	The assessee has followed all three fundamental accounting assumptions in compl
Valuation of Inventories (ICDS II)	Inventories of Finished goods has been measured at lower of cost and net realisable
Revenue Recognition (ICDS IV)	Income has been recognised on accrual basis.Hence, there is no deviation from ICDS-
Borrowing Costs (ICDS IX)	Length should be lesser than or equal to 500. basis.Hence, there is no deviation from ICDS-
Construction Contracts (ICDS III)	IV.Income has been recognised on accrual basis.Hence, there is no deviation from ICDS-
Government Grants (ICDS VII)	IV.Income has been recognised on accrual basis.Hence, there is no deviation from ICDS-
Provisions, Contingent Liabilities / A	NOT APPLICABLE.
Tangible Fixed Assets (ICDS V)	NOT APPLICABLE.

Reporting of adjustments to profit or loss for complying with the provisions of the notified ICDSs and disclosure requirements as per the ICDSs

Vide Notification No 88/2016, dated 29.9.2016, the CBDT had amended Form No 3CD with effect from 1.4.2017 and substituted sub-clause (d) of clause 13 with new sub-clauses (d), (e) and (f) requiring reporting of the adjustments and disclosures mandated as per the notified income computation and disclosure standards (ICDSs).

The amended clause 13(d) requires the tax auditor to report whether any adjustment is required to be made to the profits or loss for complying with the provisions of ICDSs notified under section 145(2) and if answer is in affirmative, new clause 13(e) requires reporting of the standard-wise adjustments made to the profit or loss for complying with the ICDSs notified u/s 145(2) showing clearly increase/decrease in profits as well as the net effect of such adjustments standard-wise.

Further, clause 13(f) requires reporting of the standard-wise disclosures as per the ICDSs.

ICDS#	Income Computation Disclosure Standards	Accounting Standard
ICDS I	Accounting Policies	(Corresponding to AS – 1)
ICDS II	Valuation of Inventories	(Corresponding to AS – 2)
ICDS III	Construction Contracts	(Corresponding to AS – 7)
ICDS IV	Revenue Recognition	(Corresponding to AS – 9)
ICDS V	Tangible Fixed Assets	(Corresponding to AS – 10)
ICDS VI	The Effects of Changes in Foreign Exchange Rates	(Corresponding to AS – 11)
ICDS VII	Government Grants	(Corresponding to AS – 12)
ICDS VIII	Securities	(Corresponding to AS – 13)
ICDS IX	Borrowing Costs	(Corresponding to AS – 16)
ICDS X	Provisions, Contingent Liabilities and Contingent Assets	(Corresponding to AS – 29)

Clause 13

Details of deviation from section 145 and effect on profits

		Increase in profit	Decrease in profit
1	I - Accounting Policies	1,00,000	NIL
2	II - Valuation of Inventories	1,00,000	NIL
3	III - Construction Contracts	1,00,000	NIL
4	IV - Revenue Recognition	1,00,000	NIL
5	V - Tangible Fixed Assets	1,00,000	NIL
6	VI - Changes in Foreign Exchange Rates	1,00,000	NIL
7	VII - Government Grants	1,00,000	NIL
8	VIII - Securities	1,00,000	NIL
9	IX - Borrowing Costs	1,00,000	NIL
10	X - Provisions, Contingent Liabilities / Assets	1,00,000	NIL
	Total	10,00,000	NIL

Clause no. 13

- **U/s 145** - The income chargeable under the head “PGBP” or “Income from other source” must be computed in accordance with either cash or mercantile system of accounting *regularly employed* by the assessee.
- The hybrid system of accounting (i.e. mixture of cash and mercantile) is not permitted.
- **U/s 145(2)**- Accounting Standard to be followed by all assesseees following mercantile system of accounting .
- The Central Government has notified two Accounting Standards [CBDT C. No. 9949 dated July 25, 1996]

Accounting Standard– I “Disclosure of Accounting Policies”

Accounting Standard–II Disclosure of “Prior Period and Extraordinary Items and changes in Accounting Policies”

CLAUSE NO. 13

Amendment in Section 145 by Finance Act, 2014

➤ U/s 145(2) reference to 'Accounting Standards' is changed with **Income Computation and Disclosure Standards**.

➤ U/s 145(3) it is provided to reject the books of accounts for not regularly following the income computation and disclosure standards.

[w.e.f. 01.04.2015]

❑ **Pr. CIT v. Deccan Mining Syndicate (P.) Ltd. [2019] 105 taxmann.com 278 (SC)**

SC dismissed the SLP filed against High Court where HC upheld Tribunal's order deleting addition as well as penalty on ground that excess stock existed only on account of wrong entries in assessee's books of account and not due to purchases made outside books of account.

❑ **SLP dismissed against High Court ruling that where CIT v. Happy Home Corporation [2019] 103 taxmann.com 22 (SC)**

SC dismissed the SLP against High court where it was held that assessee, engaged in construction business, was following project completion method, its income could be brought to tax only in year when sale deeds of units sold were registered even though sale consideration might have been received earlier from buyer.

CLAUSE NO. 13

- Change in accounting policy does not amount to change in method of accounting and thus need not be reported.
- Change in method of valuation of stock is not a matter of change in method of accounting but only a change in accounting policy.
- If there has been any change in the method of accounting employed, the method employed in the immediately preceding P.Y. Is to be stated & the effect i.e. Increase or decrease in profits has to be stated.

Note: Clause (b) refer sec 145A in which the term “inventory” is used and according to AS-2 “inventory” includes finished goods, raw material, work-in-progress, maintenance supplies, consumables and loose tools.

CLAUSE NO. 13

❑ **ITO v. v. Wasan Exports (P.) Ltd. [2019] 106 taxmann.com 21 (Delhi - Trib.)**

Assessee-company had shown value of goods in closing stock at nil, following the method of cost or market value which it followed year after year and the same was accepted in earlier years by revenue. Also, the nature of the items was to reduce each day in value.

Thus, such valuation of closing stock should be accepted.

❑ **ACIT v. U.P. Asbestos Ltd. [2019] 105 taxmann.com 102 (Lucknow - Trib.)**

The assessee followed net method of valuation of closing stock, where excise duty, etc., were not added to purchases, sales or valuation of inventories and no excisable item of closing stock was removed from factory premises till the end of accounting year. Such excise duty was rightly excluded.

❑ **Zuberi Engineering Company v. DCIT [2019] 103 taxmann.com 196 (Jaipur - Trib.)**

Rejection of books of account in preceding year could not be a reason for rejection of books of account in the current year. Also, there were no material defect found in the books then the same could not have been rejected on the reason that assessee had declared less gross profit for year under consideration or day-to-day movement of material was not reflected in stock register.

Section 145A – Method of accounting in certain cases substituted by FA, 2018 w.r.e.f. 01/04/2017

Section 145A is substituted (w.r.e.f. 01/04/2017) to provide that, for the purpose of determining the income chargeable under the head “Profits and gains of business or profession,—

(i)the valuation of inventory shall be made at lower of actual cost or net realizable value computed in the manner provided in ICDS notified under section 145(2).

[Valuation of Inventory as per ICDS -2]

(ii)the valuation of purchase and sale of goods or services and of inventory shall be adjusted to include the amount of any tax, duty, cess or fee actually paid or incurred by the assessee to bring the goods or services to the place of its location and condition as on the date of valuation. [same as old proviso of section 145A].

(iii)inventory being securities not listed on a recognized stock exchange, or listed but not quoted, shall be valued at actual cost initially recognized in the manner provided in ICDS notified under section 145(2). [Para 12 of ICDS-8, Securities]

(iv)inventory being listed securities, shall be valued at lower of actual cost or net realizable value in the manner provided in ICDS notified under section 145(2) and for this purpose the comparison of actual cost and net realizable value shall be done category-wise. [Para 9, 10, 11 of ICDS-8, Securities]

Section 145B – Taxability of certain income Newly Inserted by FA, 2018 w.r.e.f. 01/04/2017

New section 145B was newly inserted w.r.e.f. 01//04/2017 through the FA, 2018 to provide that-

- a) interest received by an assessee on compensation or on enhanced compensation, shall be deemed to be the income of the year in which it is received.
- b) the claim for escalation of price in a contract or export incentives shall be deemed to be the income of the previous year in which reasonable certainty of its realisation is achieved.
- c) income of the nature of Subsidy, Grant, cash incentive or Duty Drawback, etc referred to in sub-clause (xviii) of clause (24) of section 2 shall be deemed to be the income of the previous year in which it is received, if not charged to income tax for any earlier previous year.

This amendment was made to standardize the accounting practices to plug the possible leakage of tax revenue.

CLAUSE – 14

14. (a) Method of valuation of closing stock employed in the previous year.

(b) In case of deviation from the method of valuation prescribed under section 145A, and the effect thereof on the profit or loss, please furnish :

Serial number	Particulars	Increase in profit (Rs.)	Decrease in profit (Rs.)

CLAUSE – 14

Format in e-utility

14 (a) Method of valuation of closing stock employed in the previous year .

(b) In case of deviation from the method of valuation prescribed under section 145A, and the effect thereof on the profit or loss, please furnish:

S.No.		Particulars	Increase in profit	Decrease in profit
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

This clause requires reporting regarding method of valuation of inventory followed by the assessee and details of deviation, if any, from the method of valuation prescribed u/s 145A and its impact on profit and loss account. It is pertinent to note that section 145A has been amended with retrospective effect from AY 2017-18 to give effect to ICDS.

The amended section 145A w.e.f. AY 2017-18 covers not only goods but services and securities too.

Closing stock should be valued at lower of actual cost or net realisable value (NRV), where costs are ascertained on the basis of Specific Identification Method, FIFO or weighted average cost method.

In case of conversion of capital asset into stock is valued at FMV, the same should also be stated. Accordingly the audit report in Form 3CB should be qualified for not complying with AS 2.

- **Inventories include:**

- Finished goods being held for sale in course of ordinary business
- Stock-in-trade being Goods held for resale
- Raw material
- Work in progress
- Maintenance supplies
- Consumables
- Loose tools (not including machine spares forming part of Property Plant & Equipment)

Cost of inventory includes

Cost of purchase includes purchase price including duties and taxes (except those recoverable from taxing authorities as per AS 2), freight inwards etc. trade discounts, rebates etc. are deducted from cost.

Cost of conversion includes directly attributable costs such as labour cost

Other costs incurred in bringing the inventory to present location.

Tax auditor has to ensure that method of valuation of stock is appropriate and complies with principles of AS 2 and the same method is used consistently. If the method is inappropriate then suitable qualification in Tax audit report is required in Form 3CB.

Section 145A allows change in method of valuation in following conditions

Adoption of different policy is required by statute or

Change would result in better presentation of financial statements of the enterprise

As the enterprise follows exclusive method of accounting as per AS 2 (which is different from section 145A, which requires inclusive system to be followed), hence the following adjustments are required:

Any tax, duty or fee paid on purchase or inventory should be added to the cost of purchase or cost of inventory respectively.

Any tax, duty or fee paid on sale of goods or services should be added to sales.

It is pertinent to note that as per ICAI Tax Audit Guidance Note (Revised 2014) Para 28, the impact of following exclusive method or inclusive method would not impact profits of the entity.

Disclosure in S. No. 14(b) may be made as under (as suggested by ICAI Guidance Note of the example taken therein)

S. No.	Particulars	Particulars Increase in profit (Rs)	Decrease in profit (Rs)
1	Increase in Opening Stock on inclusion of GST		30000
2	Increase in Purchases on inclusion of GST		90000
3	Increase in Sales on inclusion of GST	90000	
4	Increase in Closing Stock on inclusion of GST	60000	
5	GST paid on sales		90000
6	GST credit availed on cost of goods sold	60000	
		210000	210000

Depending on the case, a note may be given by the assessee that ‘Inventories are not inclusive of taxes and duties; however there is nil impact on profits due to the same as per the computation made’.

Clause 13(d) &14(b)

Exclusive method of stock valuation is followed.

It has been held in the following decisions that the exclusive method of stock valuation is revenue neutral-Berger Paints India Ltd Vs. CIT 187 CTR 193 (SC),Lakhanpal National Ltd. Vs. CIT 162 ITR 240 (Guj),CIT vs. Indo Nippon Chemicals Ltd. 261 ITR 275 (SC).

In view of the above, the non-following of the inclusive method of valuation has no impact on the total income of the assessee.

CLAUSE – 15




15. Give the following particulars of the capital asset converted into stock-in-trade:—

- (a) Description of capital asset;
- (b) Date of acquisition;
- (c) Cost of acquisition;
- (d) Amount at which the asset is converted into stock-in-trade.

CLAUSE – 15

Format in e-utility

15. Give the following particulars of the capital asset converted into stock-in-trade

S.No.		(a) Description of capital asset	(b) Date of acquisition	(c) Cost of acquisition	(d) Amount at which the asset is converted into stock-in trade
1		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<div> Add  Delete</div>					

Details of capital asset converted into stock in trade in prescribed format:

i. Reporting requirement:

a. Arises in the previous year in which such conversion takes place and the same should not be postponed till the year of sale.

ii. Description of Capital Asset:

a. Provide the detail of Capital asset such as shares, securities, land, building, plant, machinery, etc. along with section 32 (if depreciable asset) that deals with depreciation and classifies the different assets based on their nature.

iii. Date of Acquisition:

a. Verify the period of holding of asset to ensure whether it is long term or Short term asset and for this purpose verify the date of purchase of assets from assessee.

iv. Cost of Acquisition:

- a. Verify cost of acquisition of capital asset (as per AS 10, if applicable), from purchase invoice and cash/bank account, Fixed asset register, etc.

v. Amount:

- a. Verify the amount at which it is converted in to Stock-in Trade (as per AS 2).
- b. In case the conversion is not done at cost but at FMV, appropriate disclosure is to be made at clause 14 (a) of Form 3CD that inventories on conversion of capital asset into stock is valued at FMV. Accordingly the audit report in Form 3CB should be qualified for not complying with AS 2.

Note: Conversion of capital asset in the form of Land & Building into stock in trade attracts provisions of Sec 50C of the Act by virtue of s. 45(2) read with s. 2(47)(iv). Hence, reporting requirement is also required under clause 17 of Form 3CD.

CLAUSE – 16

16. Amounts not credited to the profit and loss account, being, -
- (a) the items falling within the scope of section 28;
 - (b) the proforma credits, drawbacks, refund of duty of customs or excise or service tax, or refund of sales tax or value added tax where such credits, drawbacks or refunds are admitted as due by the authorities concerned;
 - (c) escalation claims accepted during the previous year;
 - (d) any other item of income;
 - (e) capital receipt, if any.

CLAUSE – 16

Format in e-utility

16 Amounts not credited to the profit and loss account, being, -
(a) The items falling within in the scope of section 28;

S.No.		Description	Amount
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>

(b) The proforma credits, drawbacks, refund of duty of customs or excise or service tax, or refund of sales tax or value added tax or Goods & Services Tax, where such credits, drawbacks or refund are admitted as due by the authorities concerned;

S.No.		Description	Amount
1	<input type="checkbox"/>	<div><div>Select</div><div><div>+ Add</div><div>✖ Delete</div></div><div><div>Select</div><div>Proforma Credits</div><div>Drawbacks</div><div>Refund of Duty of Customs</div><div>Refund of Duty of Excise</div><div>Refund of Service Tax</div><div>Refund of Sales Tax</div><div>Refund of Value Added Tax</div><div>Refund of Goods & Services Tax</div><div>Others</div></div></div>	<input type="text"/>

(c) Escalation claims accepted during the previous year;

S.No.		Description	Amount
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>

(d) any other item of income;

S.No.		Description	Amount
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>

(e) Capital receipt, if any.

S.No.		Description	Amount
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>
<div><input type="button" value="+ Add"/> <input type="button" value="X Delete"/></div>			

S. No. 16 - Amount not credited to Profit & Loss Account Requirement

This clause requires auditor to report items listed in sub-clause (a) to (e) as mentioned below regarding the 'items not credited to profit & loss account'. It could imply that reporting should be based on two distinct situations:

Not credited the said items to profit & loss account and also omitted from books of account:

Under this situation auditor is required to obtain written representation w.r.t. all the items under this clause and also the reasons for not crediting the same.

Crediting the said items in the books of account but not to the profit & loss account.

S. No. 16 (a) - The items falling within the scope of section 28:

- Auditor should ensure that all the items falling within section 28 which have not been credited to the Profit & Loss Account are reported here.
- He should scrutinize all credit items so as to ensure that such items are either properly accounted in the books of account or else they are reported.

S. No. 16 (b)

- Under this clause, the details of the following claims, if admitted as due by the concerned authorities but not credited to the profit and loss account, are to be stated.

- a. Pro-forma credits
- b. Drawback
- c. Refund of duty of customs
- d. Refund of excise duty
- e. Refund of service tax
- f. Refund of sales tax or value added tax

The auditor should scrutinise the relevant files or regulator's website (if the details are available thereon) or subsequent records relating to such refunds while verifying the particulars and also obtain an appropriate management representation.

S. No. 16 (c) - Escalation claims accepted during the previous year

- Under this clause, the escalation claims accepted during the previous year but not credited to the profit and loss account should be stated.
- Escalation claims would normally arise pursuant to a contract (including contracts entered into in earlier years)
 - a) if so permitted by the contract, and
 - b) other party has signified unconditional acceptance could constitute accepted claims.

S. No. 16 (d) - Any other item of income

This clause covers any other items which the tax auditor considers as an income of the assessee based on his verification of records and other documents and information gathered, but which has not been credited to the profit and loss account.

It should disclose any item other than taxable u/s 28, as the same is reportable at S. No. 16(a).

In giving the details under S. Nos. (c) and (d), due regard should be given to AS 9 Revenue Recognition.

S. No. 16 (e) - Capital receipt, if any.

The purpose of this clause is to inform the Tax Authorities about various capital receipts which have not been credited to profit & loss account so that they can determine whether such receipts are taxable or not and whether the assessee has offered such capital receipts for taxation if taxable.

Note: Loans and borrowings should not be stated under this sub-clause.

Clause 17

17. Where any **land or building or both is transferred** during the previous year for a consideration less than the value adopted or assessed or assessable by any authority of a State Government referred to in **Section 43CA or 50C**, please furnish:

Details of property	Consideration received or accrued	Value adopted or assessed or assessable	Whether provisions of second proviso to 43CA(1) or fourth proviso to 56(2)(x) applicable ? (Yes/No)

Brief: Stamp Duty value is to be specified for land or building or both sold whether held in nature of Capital assets or Stock in trade.

CLAUSE – 17

Format in e-utility

17 Where any land or building or both is transferred during the previous year for a consideration less than value adopted or assessed or assessable by any authority of a State Government referred to in section 43CA or 50C, please furnish:

S.No.	Details of property	Address of Property					Consideration received or accrued	Value adopted or assessed or assessable
		Address Line 1	Address Line 2	City or Town or District	State	Pincode		
1					Select			

CLAUSE NO. 17

Reporting will be required under this clause if the following conditions are cumulatively satisfied –

- ✓ the assessee has transferred land or building or both;
- ✓ the transfer is during the previous year;
- ✓ consideration for transfer is less than the value adopted or assessed or assesable by any authority of a State Government

AS PER REVISED GUIDANCE NOTE 2014

26.1 Section 43CA is applicable where the assessee has transferred an asset (other than a capital asset) being land or building or both and the value of such an asset is less than the value adopted or assessed or assessable by any State government authority for the purpose of payment of stamp duty. In such a case for purpose of computing profit & gains from such transfer, the value so adopted or assessed or assessable shall be deemed to be the full value of consideration.

26.2 Section 50C is applicable where the assessee has transferred a capital asset being land or building or both and the value of such an asset is less than the value adopted or assessed or assessable by any State Government authority for the purpose of payment of stamp duty. In such a case, for purpose of section 48, the value so adopted or assessed or assessable by stamp duty authority shall be deemed to be the full value of consideration.

AS PER REVISED GUIDANCE NOTE 2014

26.3 Where any land or building or both is transferred during the previous year for a consideration less than value adopted or assessed or assessable by any authority of a State Government referred to in section 43CA or 50C, the auditor is required to furnish the following details:

- (a) Details of property
- (b) Consideration received or accrued
- (c) Value adopted or assessed or assessable

AS PER REVISED GUIDANCE NOTE 2014

26.4 In the column requiring the details of property, the auditor has to furnish the details about the nature of property i.e. whether the property transferred by him is land or a building along with the address of such property. If the assessee has transferred more than one property, the detail of all such properties is required to be mentioned. The auditor should obtain a list of all properties transferred by the assessee during the previous year. He may also verify the same from the statement of profit and loss or balance sheet, as the case may be. Attention is invited to the meaning of the term “transfer” as defined in section 2(47) of the Act.

26.5 Under the heading “consideration received or accrued”, the auditor has to furnish the amount of consideration received or accrued, during the relevant previous year of audit, in respect of land/building transferred during the year as disclosed in the books of account of the assessee.

AS PER REVISED GUIDANCE NOTE 2014

26.6 For reporting the value adopted or assessed or assessable, the auditor should obtain from the assessee a copy of the registered sale deed in case, the property is registered. In case the property is not registered, the auditor may verify relevant documents from relevant authorities or obtain third party expert like lawyer, solicitor representation to satisfy the compliance of section 43CA/ section 50C of the Act. In exceptional cases where the auditor is not able to obtain relevant documents, he may state the same through an observation in his report 3CA/CB.

26.7 Auditor would have to apply professional judgment as to what constitutes land or building for e.g. whether leasehold right / development rights / TDR / FSI etc would fall under this provisions or not, would require to be evaluated based on facts & circumstances of transactions.

Rationalized the provisions of Section 43CA, Section 50C by FA, 2018 w.e.f. 01/04/2019

It is provided that the full value of consideration shall not be revised to stamp duty value, where the stamp duty value does not exceed **105% of the consideration received or accruing as a result of the transfer.**

Proviso to sub section 1 of Section 43CA inserted w.e.f 01/04/2019

3rd proviso to Sub Section 1 of section 50C inserted w.e.f 01/04/2019

[2018] 97 taxmann.com 430 (Madras)

It is provided that in section 43CA where date of agreement fixing the value of consideration for transfer of asset & date of registration are not the same, the value referred to in sub-section (1) may be taken as the stamp duty value in respect of such transfer on the date of the agreement **where the amount of consideration or a part thereof has been received by way of an account payee cheque or an account payee bank draft or by use of ECS through a bank account on or before the date of agreement for transfer of the asset.** [earlier written 'by any mode other than cash'] **Sub section 4 of Section 43CA substituted w.e.f 1st day of April, 2019**

CLAUSE NO. 18

18. Particulars of depreciation allowable as per the Income-tax Act, 1961 in respect of each asset or block of assets, as the case may be, in the following form :—

- a) Description of asset/block of assets.
- b) Rate of depreciation.
- c) Actual cost of written down value, as the case may be.
- d) Additions/deductions during the year with dates; in the case of any addition of an asset, date put to use; including adjustments on account of —
 - i. Central Value Added Tax credits claimed and allowed under the Central Excise Rules, 1944, in respect of assets acquired on or after 1st March, 1994,
 - ii. change in rate of exchange of currency, and
 - iii. subsidy or grant or reimbursement, by whatever name called.
- e) Depreciation allowable.
- f) Written down value at the end of the year

Clause 18

Particulars **of depreciation allowable** as per the Income-tax Act, 1961 in respect of **each asset or block of assets**, as the case may be, in the following forms [as amended by Income-tax (22nd Amendment) Rules, 2020]:

- a) Description of asset/ block of assets.
- b) Rate of Depreciation (in percentage)
- c) Actual cost or written down value, as the case may be.
- ca) Adjustment made to the written down value under section 115BAC/115BAD (for AY 2021-22 only) (*Subs. in form 3CD vide IT Rules, 2021*)
- cb) Adjustment made to written down value of Intangible Asset due to excluding value of Goodwill of a business or profession (*Subs. in form 3CD vide IT Rules, 2021*)
- cc) Adjusted written down value..... (*Subs. in form 3CD vide IT Rules, 2021*)

ICAI's Comment

- It has been observed that the details of additions/deletions reported in Tax Audit Report are not in line with the figures of additions/ deletions disclosed in Audited financial statements.

Clause no. 18

- d) Additions/deductions during the year with dates; in the case of any addition of an asset, date to put to use;

Date of addition/deductions, Particulars, Amount, In case of addition- date put to use. In case of deduction- NA

Adjustments on account of

- i. **Central Value Added Tax** credit claimed and allowed under the central Excise Rule, 1994 in respect of assets acquired on or after 1st march, 1994
- ii. Change in the rate of exchange of currency, and
- iii. Subsidy or grant or reimbursement, by whatever name called.

ICAI's Comment

- It has been observed that in some cases the Amount of adjustment on account of Exchange Fluctuation (due to change of rate of exchange if any) for which a separate column is provided under Additions has not been shown in the TAR uploaded on the Income Tax department website while the same has been reported in the annexure attached to physically signed Tax Audit Report.
- e) Depreciation allowable
- f) Written down value at the end of the year.

Clause no. 18

Format in E-utility...

Description of the block of Assets/class of assets	Rate of depreciation	Opening WDV/ actual (A)	Adjustment made to the WDV u.s. 115BAA (For AY 2020-21 only)	Adjusted written down value



Additions					
Details	Purchase Value (1)	Adjustments on account of			Total value of purchase (B) (1+2+3+4)
Import CSV		CENVAT (2)	Change in rate of exchange (3)	Subsidy / grant (4)	
Fill Data					
View Data					
Additions CSV Template Deductions CSV Template Help					



Deductions (C)	Depreciation allowable (D)	WDV at the end of the year (A+B+C-D)	Block Nil

Amendment in rates of Depreciation

Income-tax (29th Amendment) Rules, 2016.

➤ Proviso after sub-Rule (1) of Rule 5

“Provided that in case of a domestic company which has exercised option under sub-section (4) of section 115BA, the allowance under clause (ii) of sub-section (1) of section 32 in respect of depreciation of any block of assets entitled to more than forty per cent. shall be restricted to forty per cent. on the written down value of such block of assets.” w.e.f. 1st day of April, 2016

➤ In the New Appendix I, in the second column of the Table, for the figures “ ‘50’, ‘60’, ‘80’, ‘100’ ”, wherever they occur, the figure “40” shall be substituted w.e.f. 1st day of April, 2017.*

Notification No.103/ 2016 dated 7th November, 2016

*** Applicable from AY 2018-19 & onwards**

Section 115BA

In respect of the total income of a domestic company, from AY 2017-18 and onwards, the assessee shall have option to pay income-tax at rate of 25%., subject to following conditions:

- a) the company has been set up and registered on or after the 01-03-2016;
- b) the company is engaged in the business of manufacturing or production of any article or thing; and
- c) the total income of the company has been computed, –
 - i. without any deduction u/s 10AA or 32(1)(ia) or 32AC or 32AD or 33AB or 33ABA or 35(1) (ii)/(ia)/ (iii) or 35(2AA) or 35(2AB) or 35AC or 35AD or 35CCC or 35CCD or under any provisions of Chapter VI-A under the heading “C.– Deductions in respect of certain incomes” other than the provisions of section 80JAA;
 - ii. without set off of any loss carried forward from any earlier assessment year if such loss is attributable to any of the deductions referred to in sub-clause (i); and
 - iii. depreciation u/s 32, other than clause (ia) of sub-section (1) of the said section is determined in the manner as may be prescribed.

Issues on Clause no. 18....

- It is compulsory for all assessee to claim depreciation or additional depreciation (in terms of S. 32(1)(ii)) in calculating taxable income otherwise no deduction will be allowed & WDV will be treated as reduced – **Explanation 5 to Sec 32 (w.e.f A.Y. 2002-03).**
- ‘**Allowable**’ implies permissible deduction under provision of Act and Rules.
- ‘**Used**’ means actual use and is not kept ready for use.
- Assets used partly for Business purpose, deduction u/s 32(1) restricted to proportionate part.
- Under ‘Change in the rate of exchange of currency’ – adjustment is contemplated u/s 43A & AS-11. **(u/s 43A deduction on cash basis but AS-11 (revised) deduction on accrual basis)**
- Depreciation debited to P&L A/c as per requirement of Schedule VI not reported under this Clause.

Note: e-utility provides facility to import CSV files to fill the details of additions and deductions. Moreover, it is also providing CSV templates for the same.

Section 43A vis-à-vis AS-11 (Revised)

- ❑ As per [Section 43A](#), where assessee has acquired any asset in any previous year from country outside India for the purposes of business or profession & due to change in rate of exchange during any previous year after such acquisition, there is increase or reduction in assessee's liability **at the time of making payment** towards such asset or towards the money borrowed in foreign currency, **the amount of such increase or decrease in the liability** during such previous year shall be added to, or, as the case may be, deducted from the actual cost of the asset. Thus, **the extent of addition or reduction will be limited to the exchange difference actually paid during the previous year.**
- ❑ As per Para 46A of [AS-11 \(Revised\)](#), the exchange differences arising on reporting of long term foreign currency monetary items (in case of acquisition of a depreciable capital asset) at rates different from those at which they were initially recorded during the period, or reported in previous financial statements, can be added to or deducted from the cost of the asset and shall be depreciated over the balance life of the asset.
- ❑ **Under ICDS VI (*The effects of changes in foreign exchange rates*)**, recognition of exchange difference under ICDS is subject to the provisions of Section 43A of the Act or Rule 115 of the Rules.

Section 43A vis-à-vis AS-11

- ❑ As per [Section 43A](#), where assessee has acquired any asset in any previous year from country outside India for the purposes of business or profession & due to change in rate of exchange during any previous year after such acquisition, there is increase or reduction in assessee's liability **at the time of making payment** towards such asset or towards the money borrowed in foreign currency, **the amount of such increase or decrease in the liability** during such previous year shall be added to, or, as the case may be, deducted from the actual cost of the asset. Thus, **the extent of addition or reduction will be limited to the exchange difference actually paid during the previous year.**
- ❑ As per Para 46A of [AS-11 \(Revised\)](#), the exchange differences arising on reporting of long term foreign currency monetary items (in case of acquisition of a depreciable capital asset) at rates different from those at which they were initially recorded during the period, or reported in previous financial statements, can be added to or deducted from the cost of the asset and shall be depreciated over the balance life of the asset.
- ❑ **Under ICDS**, exchange difference on all monetary items should be recognized as **income or expense**. However, initial recognition, conversion & recognition of exchange difference under ICDS is subject to the provisions of Section 43A of the Act or Rule 115 of the Rules.

Issues on Clause no. 18

- Depreciation is not allowed on an amount equivalent to CENVAT/ ITC credit claimed and allowed.
- Depreciation is allowed on “actual Cost”- term defined u/s 43(1) of I.T. Act.
- An assessee can claim depreciation on actual cost even if he follows Cash method of accounting.
- Interest relatable to any period after such asset is first put to use is not a part of actual cost (other than Section 43A).
- In case of dispute between Assessee, Department & Auditor regarding classification of assets, rate of depreciation etc. in earlier year, a suitable disclosure is required.

CLAUSE - 19

Amounts admissible under sections :





Section	Amount debited to profit and loss account	Amounts admissible as per the provisions of the Income-tax Act, 1961 and also fulfils the conditions, if any specified under the relevant provisions of Income-tax Act, 1961 or Income-tax Rules, 1962 or any other guidelines, circular, etc., issued in this behalf.
32AC		
32AD		
33AB		
33ABA		
35(1)(i)		
35(1) (ii)		
35(1)(iia)		
35(1)(iii)		
35(1)(iv)		

35(2AA)		
35(2AB)		
35ABB		
35AC		
35AD		
35CCA		
35CCB		
35CCC		
35CCD		
35D		
35DD		
35DDA		
35E		

CLAUSE – 19

Format in e-utility

19 Amounts admissible under sections:

S.No.		Section	Amount debited to profit and loss account	Amounts admissible as per the provisions of the Income-tax Act, 1961 and also fulfils the conditions, if any specified under the relevant provisions of Income-tax Act, 1961 or Income-tax Rules,1962 or any other guidelines, circular, etc., issued in this behalf.
1		<div>Select </div>	<input type="text"/>	<input type="text"/>
<div> Add  D</div>		<div><div>32AC</div><div>32AD</div><div>33AB</div><div>33ABA</div><div>35(1)(i)</div><div>35(1)(ii)</div><div>35(1)(iia)</div><div>35(1)(iii)</div><div>35(1)(iv)</div><div>35(2AA)</div><div>35(2AB)</div><div>35ABA</div><div>35ABB</div><div>35AC</div><div>35AD</div><div>35CCA</div><div>35CCB</div><div>35CCC</div><div>35CCD</div><div>35D</div><div>35DD</div><div>35DDA</div><div>35E</div></div>		

List of Sections.....

Section	Amount debited to P&L Account/Payment	Amounts admissible/Quantum of deduction
32AC	Investment in new plant & machinery	15% of actual cost of new asset (No deduction allowed from A.Y. 2018-19 onwards)
32AD	Investment in new plant & machinery in Backward areas as prescribed	15% of actual cost of new asset <i>(this row entry is introduced by Notification No. 33/2018 dated 20/07/2018)</i>
33AB	Tea Development	sum= amount or aggregate of amounts so deposited; OR Sum= 40% of profits of business; whichever is least
33ABA	Site Restoration Fund: Deposit in ministry of petroleum & natural gas for extraction etc	Sum=amount or aggregate of amounts so deposited; OR Sum= 20% profits of business; whichever is least
35(1)(i)	Revenue expenditure in respect of scientific research related to the business	100% of the expenditure

List of Sections.....

Section	Amount debited to P&L Account/Payment	Amounts admissible/ Quantum of deduction
35(1)(ii)	Amount paid to research association which has as its object the undertaking of scientific research or to a university, college or other institution notified & approved by CG to be used for scientific research	100% of amount contributed (from A.Y. 2021-22) 150% of amount contributed (from A.Y. 2018-19 till A.Y. 2020-21) 175% of amount contributed (from A.Y. 2011-12 till A.Y. 2017-18) 125% of amount contributed (till A.Y. 2010-11)
35(1)(ia)	Amount paid to an approved company registered in India to be used for scientific research & development	100% of amount paid (from A.Y. 2018-19) 125% of amount paid (from A.Y. 2009-10 till A.Y. 2017-18)
35(1)(iii)	Amount paid to research association which has as its object the undertaking of research in social science or statistical research OR to a university, college or other institution notified & approved by CG to be used for research in social science or statistical research	100% of amount paid (from AY 2018-19) 125% of amount paid (upto A.Y. 2017-18)
35(1)(iv)	Capital expenditure on scientific research other than on acquisition of land, related to the business carried on by the assessee, such deduction as may be admissible under the provisions of sub-Section (2)	100% of capital expenditure incurred

List of Sections.....

Section	Eligible expenditure/payment	Amount/quantum of deduction
35(2AA)	Amount paid to National Laboratory or a University or an Indian Institute of Technology or a specified person with a specific direction to use such amount for scientific research undertaken under a programme approved by the prescribed authority	100% of amount paid (from A.Y. 2021-22 onwards) 150% of amount paid (from A.Y. 2018-19 till A.Y. 2020-21) 200% of amount paid (from A.Y. 12-13 till A.Y. 2017-18)
35(2AB)	Expenditure on scientific research on in-house research and development facility as approved by the prescribed authority <u>From A.Y. 2012-13</u> : By a company engaged in business of bio-technology or business of manufacture/ production of any article or thing other than specified in Eleventh. <u>Upto A.Y. 2011-12:</u> Company engaged in business of manufacture or production of any drugs, pharmaceuticals, electronic equipments, computers, telecommunication equipments, chemicals or any other article or thing notified by board.	100% of expenditure incurred (from A.Y. 2021-22 onwards) 150% of expenditure incurred (from A.Y. 2018-19 till A.Y. 2020-21) 200% of expenditure incurred (from A.Y. 2011-12 till A.Y. 2017-18)

List of Sections.....

Section	Eligible expenditure/payment	Amount/quantum of deduction
35ABA	Expenditure for obtaining right to use spectrum for telecommunication services	<p><u>Spectrum fees paid before commencement of business:</u> Spectrum fee paid / No. of years from the previous year of commencement of business to the previous year in which spectrum fees expires.</p> <p><u>Spectrum fees paid after commencement of business:</u> Spectrum fee paid / No. of years from the previous year in which spectrum fee actually paid to the previous year in which spectrum fees expires.</p>
35ABB	Capital Expenditure on license to operate telecommunication services	<p><u>License fees paid before commencement of business:</u> License fee paid / No. of years from the previous year of commencement of business to the previous year in which license expires.</p> <p><u>License fees paid after commencement of business:</u> License fee paid / No. of years from the previous year in which license fee actually paid to the previous year in which license expires.</p>

List of Sections.....

Section	Amount debited to P&L Account/ Payment	Amounts admissible/ Quantum of deduction
35AC	Payment to public sector Co. or local authority or an association or institution approved by national committee for carrying eligible Projects/Schemes	100% of expenditure (No deduction allowed from A.Y. 2018-19 onwards)
35AD	Deduction in respect of capital expenditure on specified business	<p>100% - laying/setting up/ building/ developing/ operating cross country natural gas pipeline/ a new hotel in India/ a housing project under slum rehabilitation scheme/ inland container depot or freight station/ bee-keeping & production of honey & bee-wax/ warehouse facility for sugar/ slurry pipeline for transportation of iron ore (w.e.f. A.Y. 2015-16)/ wafer fabrication manufacturing unit (w.e.f. A.Y. 2015-16)</p> <p>150% – setting up/ laying/ building/ operating a cold chain facility/ warehousing facility for agriculture produce/a new hospital with at least 100 beds/ a housing project under affordable housing scheme/ production of fertilizer in India</p> <p>From A.Y. 2018-19 onwards, 100% of expenditure.</p>
35CCA	Rural development programme carried on by association & institutions	100% of expenditure

List of Sections.....

Section	Eligible expenditure/payment	Amount/quantum of deduction
35CCB	Conservation of Natural resources by associations & institutions*** Deleted from A.Y 2003-04	100% of expenditure
35CCC	Expenditure on agricultural extension project	100% of expenditure (from A.Y. 2021-22 onwards) 150% of expenditure (till A.Y. 2020-21)
35CCD	Expenditure on skill development project by a Company	100% of expenditure (from A.Y. 2021-22 onwards) 150% of expenditure (till A.Y. 2020-21)
35D	Amortization of Preliminary Expenses by Indian resident or Company	(1/5)* expenditure For each of the 5 successive P.Y. beginning with P.Y. in which business commences or extension is completed or new unit commences production/ operation
<p>With amendment by Finance Act, 2008, an assessee who is not industrial undertaking is also eligible for deduction u/s 35D for extension of unit for AY 2009-10 onwards.</p> <p>Deep Industries Ltd. Vs. CIT [2015] 16 taxmann.com 348 (Ahmedabad-ITAT)</p>		

List of Sections.....

Section	Eligible expenditure/payment	Amount/quantum of deduction
35DD	Amortization of Expenditure in case of amalgamation or demerger incurred by an Indian company	(1/5)* expenditure For each of the 5 successive P.Y. beginning with P.Y. in which amalgamation or demerger takes place
35DDA	Amortization of expenditure incurred under Voluntary Retirement Scheme	(1/5)* amount deducted in computing profits/gains of business for P.Y. ;& Balance shall be deducted in equal installments for each of the 4 succeeding P.Y.
35E	Expenditure on prospecting or extraction or production of certain minerals	(1/10)* expenditure For each of 10 successive P.Y.

Section 32AD- Inserted by Finance Act, 2015 [w.e.f. 01-04-2016]

Section 32AD in the Act was inserted to provide for an additional investment allowance of an amount equal to 15% of the cost of new asset acquired and installed by an assessee, if—

- (a) he sets up an undertaking or enterprise for manufacture or production of any article or thing on or after 1st April, 2015 in any notified backward areas in the State of Andhra Pradesh, State of Bihar, State of West Bengal and the State of Telangana; and
- (b) the new assets are acquired and installed for the purposes of the said undertaking or enterprise during the period beginning from the 1st April, 2015 to 31st March, 2020.

If any new asset acquired and installed by the assessee is sold or otherwise transferred, except in connection with the amalgamation or demerger or re-organisation of business referred to in clause (xiii) or clause (xiiib) or clause (xiv) of section 47, within a period of five years from the date of its installation, the amount of deduction allowed under this section in respect of such new asset shall be deemed to be the income of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which such new asset is sold or otherwise transferred, in addition to taxability of gains, arising on account of transfer of such new asset.

Section 35AD – Amendments by Finance Act, 2014 [w.e.f. 01-04-2015]

- 35AD(3) Where a deduction under this Section is claimed and allowed in respect of the specified business as in Section 35AD (8)(c) for any assessment year, no deduction shall be allowed under the provisions of [*Section 10AA and*] Chapter VI-A under the heading "*C.—Deductions in respect of certain incomes*" in relation to such specified business for the same or any other assessment year.
- Two new businesses are added in the list of specified business u/s 35AD(8)(c) namely:
 - laying & operating a slurry pipeline for the transportation of iron ore;
 - setting up and operating a semi-conductor wafer fabrication manufacturing unit notified by the Board in accordance with such guidelines as may be prescribed.
- Specified Assets should be used at least for 8 years for specified purpose. (**Sub-Sec 7A**)
- Amount of deduction allowable u/s 35AD *reduced by the amount of depreciation allowable as per Sec.32*, is chargeable under PGBP if specified assets are not used for specified purpose during specified period of 8years. (**Sub- Sec 7B**)
- The provisions of Sub-Section 7B do not apply to a company *which has become a sick industrial company u/s 17(1) of the Sick Industrial Companies (Special Provisions) Act, 1985* during specified period of 8 years. (**Sub-sec 7C**)

CLAUSE – 20

20. (a) Any sum paid to an employee as bonus or commission for services rendered, where such sum was otherwise payable to him as profits or dividend. [Section 36(1)(ii)]

(b) Details of contributions received from employees for various funds as referred to in section 36(1)(va):

Serial number	Nature of fund	Sum received from employees	Due date for payment	The actual amount paid	The actual date of payment to the concerned authorities

CLAUSE – 20

Format in e-utility

20 (a) Any sum paid to an employee as bonus or commission for services rendered, where such sum was otherwise payable to him as profits or dividend. [Section 36(1)(ii)]

S.No.		Description	Amount
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>

Any sum paid to an employee as bonus or commission for services rendered, where such sum was otherwise payable to him as profits or dividend. [Section 36(1)(ii)].

Bonus and commission to employees as per their employment terms is deductible expenditure as these are contractual payments but indirect distribution of dividend/profits in the name of bonus/commission is not deductible expense as the assessee claims expenditure to reduce his income and income tax and avoid Dividend distribution tax . Hence disallowed.

Auditor should carefully examine the bonus and commission paid to employees with their terms of contract of those employees/ directors and need not to check of those who are independent directors.

CLAUSE – 20

Format in e-utility

(b) Details of contributions received from employees for various funds as referred to in section 36(1)(va):

S.No.	Nature of fund	Sum received from employees	Due date for payment	The actual amount paid	The actual date of payment to the concerned authorities
1					

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Details of contributions received from employees for various funds as referred to in section 36(1)(va)

- Section 36(i)(va) of the Act permits deduction of any sum received by the assessee from any of his employees (like contributions to any provident fund or superannuation fund or ESI Fund or any other Fund for employees' welfare), if it is credited by the assessee to the account of the employees in the relevant statutory fund on or before the due date.
- The ESIC for a month was to be deposited upto 21st of the next month. However, the same has changed to 15th of next month w.e.f. June 2017.
- The PF must be deposited upto 15th of the next month.

- The tax auditor should get a list from the assessee where all the contributions received from employees are deposited.
- He should take challans of deposition of contribution as the date and amount on challan is the actual date and actual amount for deposition of the contribution
- Generally contribution received from employees are treated as liability and credited to that liability account, so auditor should scrutinize these accounts and compare this with actual contribution deposited.

Provident fund

Certain deductions to be allowed only on actual payment (Provident Fund contributions) - Employer did not deposit contribution within stipulated time as contemplated by paragraph 30 of PF Scheme or before due date under provisions of PF scheme/Act - However, he deposited contribution to PF/ESI Fund before due date contemplated under section 139(1)

- Whether assessee would be entitled to deduction?

Held, yes -In favour of assessee in the following judicial pronouncements:-

- ▶ CIT v/s Alom Extrusions Ltd (SC) 319 ITR 306
- ▶ CIT v/s. Vinay Cement Ltd. (2007) 213 CTR (SC) 268,
- ▶ CIT v/s Sabari Enterprises 298 itr 141 (kar) (SLP Dismissed by SC)
- ▶ Spectrum Consultants India (p) Ltd., V/s CIT 34 Taxmann.com 20(kar)
- ▶ Essae Teraoka (p) ltd. V/s DCIT 43 Taxmann.com 33 (kar)
- ▶ CIT v/s Magus Customers Dialog(p) Ltd. 57 taxmann.com 94 (kar)
- ▶ CIT v/s. M.N. Chari (2009) 310 ITR 445.
- ▶ CIT Vs. AIMIL Ltd.(Delhi) 321 ITR 508
- ▶ CIT V. Kichha Sugar Co. Ltd (Uttarkand High Court)
- ▶ Jaipur Vidyut Vitran Nigam Ltd. [TS-16-HC-2014(RAJ)]
- ▶ Hindustan Organics Chemicals Ltd [TS-423-HC-2014(BOM)]

Clause – 21(a)

21. (a) Please furnish the details of amounts debited to the profit and loss account, being in the nature of capital, personal, advertisement expenditure

Nature	Serial number	Particulars	Amount in Rs.
1. Capital expenditure			
2. Personal Expenditure			
3. Advertisement expenditure in any souvenir, brochure, tract, pamphlet or the like, published by a political party			
4. Expenditure incurred at clubs being entrance fees and subscriptions			
5. Expenditure incurred at clubs being cost for club services and facilities used.			

Nature	Serial number	Particulars	Amount in Rs.
6. Expenditure by way of penalty or fine for violation of any law for the time being force.			
7. Expenditure by way of any other penalty or fine <u>not covered above</u>			
8. Expenditure incurred for any purpose which is an offence or which is prohibited by law			

Expenditure of Capital Nature:-

Expenditure of capital nature which is debited to profit and loss account has to be reported. The disclosure should include loss on sale of fixed assets, loss on sale of Investments, etc. The tax auditor should keep the above principle in mind and if the same are not followed by the assessee, then the auditor should qualify the Tax Audit Report.

Expenditure of Personal Nature:-

Personal expenses of the assessee are not allowable while computing Income from Business or Profession. It should be noted that the word 'Personal' is confined to and attached with the "assessee" and not necessarily to and with persons other than the assessee. The Tax Auditor should also collect information from Statutory Audit Report (In case of companies, statutory auditor is required to report if personal expenses are debited to profit & loss account) and also based on his audit procedures and report the same under clause.

Expenditure on advertisement being souvenir, brochure, tract, pamphlet, etc published by a Political Party:-

The Tax Auditor should keep in mind that no deduction is allowed in respect of expenditure incurred by an assessee on advertisement in any souvenir, brochure, tract, pamphlet or the like published by a political party as per s. 37(2B). Therefore, the expenditure of this nature should be segregated and reported under this clause. In case a trade union or labour union is promoted or formed by a political party but have a distinct legal entity, then expenditure incurred by way of advertisement given in the souvenir, brochure, tract, pamphlet or journal published by the trade union or the labour union is not required to be indicated in this clause.

Expenditure incurred at clubs:-

Details are required for entrance fees and subscription as well as expenditure incurred for club services and facilities used. If the expenditure incurred at club is of personal nature, then the same should be reported, as the same are not allowable.

Expenditure by way of penalty or fine for violation of law or otherwise or for offence or which is prohibited by law:-

It must be borne in mind that the tax auditor while reporting under this clause is not required to express any opinion as to the allowability or otherwise of the amount of penalty or fine for violation of law. He is only required to give the details of such items as have been charged in the books of accounts. This clause covers only penalty or fine for violation of law and not the payment for contractual breach or liquidator damages. The tax auditor should keep in mind the difference between the amount prohibited by law and the amount paid which is compulsory in nature under the relevant statute. While stating the particulars under this clause, the tax auditor should also take into consideration the concept of materiality. Details are to be given under this clause if the penalty, etc. are debited to profit & loss account, even if the assessee is contesting before the higher authorities. Where the assessee is required to pay an amount being purely compensatory in nature, then the same is allowable u/s 37(1) and is not reportable under this clause.

CLAUSE 21(b)

Amounts inadmissible under Section 40(a):-

(i) as payment to **non-resident** referred to in sub-Clause (i)

(A) Details of payment on which tax is not deducted:

Date of payment	Amount of payment	Nature of payment	Name and address of the payee



e-utility also requires PAN, if available

CLAUSE 21(b)

(B) Details of payment on which tax has been deducted but has not been paid during the previous year or in the subsequent year before the expiry of time prescribed under Section 200(1)

Date of payment	Amount of payment	Nature of payment	Name and address of the payee	Amount of tax deducted



e-utility also requires PAN, if available

CLAUSE 21(b)

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(b) Amounts inadmissible under section 40(a):-

(i) as payment to non-resident referred to in sub-clause (i)

(A) Details of payment on which tax is not deducted:

S.No.	Date of payment	Amount of payment	Nature of payment	Name of the payee	PAN of the Payee, if available	Address Line 1	Address Line 2	City or Town or District	Pincode
1									

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(B) Details of payment on which tax has been deducted but has not been paid during the previous year or in the subsequent year before the expiry of time prescribed under section 200(1)

S.No.	Date of payment	Amount of payment	Nature of payment	Name of the payee	PAN of the Payee, if available	Address Line 1	Address Line 2	City or Town or District	Pincode	Amount of tax deducted
1										

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U/s 40(a)(i) - Any interest, royalty, fees for technical services or other sum chargeable under the Income-tax Act which is payable outside India or in India to a non-resident or a foreign company on which tax is deductible at source and such tax has not been deducted or after deduction has not been paid during the previous year or in the subsequent year before the expiry of the time prescribed.

CLAUSE 21(b)

21(b) (ii) as payment referred to in sub-Clause (ia)

(A) Details of payment on which tax is not deducted:

date of payment	amount of payment	nature of payment	name and address of the payee

(B) Details of payment on which tax has been deducted but has not been paid on or before the due date specified in Sec. 139(1).

date of payment	amount of payment	nature of payment	name and address of the payer	amount of tax deducted	amount out of (V) deposited, if any

e-utility also requires PAN, if available

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(ii) as payment referred to in sub-clause (ia)

(A) Details of payment on which tax is not deducted:

S.No.	Date of payment	Amount of payment	Nature of payment	Name of the payee	PAN of the payee, if available	Address Line 1	Address Line 2	City or Town or District	Pincode
1									

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(B) Details of payment on which tax has been deducted but has not been paid on or before the due date specified in sub- section (1) of section 139.

S.No.	Date of payment	Amount of payment	Nature of payment	Name of the payer	PAN of the Payer, if available	Address Line 1	Address Line 2	City or Town or District	Pincode	Amount of tax deducted	Amount out of (VI) deposited, if any
1											

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U/s 40(a)(ia) - Any interest, commission or brokerage, rent, royalty, fees for professional services or fees for technical services payable to a resident or amounts payable to a contractor or subcontractor, being resident, for carrying out any work, on which TDS is deductible and such tax has not been deducted or, after deduction, the has not been paid on or before the due date of filing return u/s 139(1).

CLAUSE 21 (b)

(iii) As payment referred to in sub-clause (ib)

A) Details of payment on which levy is not deducted:

date of payment	amount of payment	nature of payment	name and address of the payee

B) Details of payment on which levy has been deducted but has not been paid on or before the due date specified in sub-section (1) of section 139.

date of payment	amount of payment	nature of payment	name and address of the payer	amount of tax deducted	amount out of (V) deposited, if any

TDS Details for Equalisation Levy (40a(ib))

Since 1st June, 2016, the Government of India has introduced a new levy through the Finance Act. The levy, termed as the Equalisation Levy, was introduced to bring to tax payments made to non-residents who acted in the Digital Space. It was found that when many Indian companies / individuals obtained digital services, the payments were made without deducting tax. As the non-residents were not in India, nor did they have a PE in India, they were not taxed on their receipts for their digital services, for example, Netflix, Google, Facebook etc. The business models in the digital domain have created profit shifting issues and the Govt. of India, like many other countries across the world, has taken the step to tax payments made through a withholding levy. A 6% equalisation levy will be levied on payments for specified services (currently only digital marketing), if the aggregate payment exceeds Rs.1 lakh. The deduction and remittance of equalisation levy is covered u/s 40a(ib).

Clause 21 (b)

(iv) Under Sub-Clause (ic) [Wherever applicable]

Section 40(a)(ic)- Any sum paid on account of **fringe benefit tax** under Chapter - XIIH.

(v) Under Sub-Clause (iia)

Section 40(a)(iia)- Any sum paid on account of **wealth-tax**.

Note: These clauses are not applicable. However, reporting still continues.

CLAUSE 21(b)

(vi) Under Sub-Clause (iib)

Section 40(a)(iib)-

Any amount—

(A) paid by way of royalty, licence fee, service fee, privilege fee, service charge or any other fee or charge, by whatever name called, which is levied exclusively on; or

(B) which is appropriated, directly or indirectly, from, a State Government undertaking by the State Government.

Inserted by Finance Act, 2013, w.e.f. 1-4-2014

CLAUSE 21(b)

(vii) Under Sub-Clause (iii)

date of payment	amount of payment	name and address of the payee



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Section 40(a)(iii)- Any payment which is chargeable under the head "Salaries", if it is payable—

(A) outside India; or

(B) to a non-resident,

and if the tax has not been paid thereon nor deducted there from under Chapter XVII-B

CLAUSE 21(b)

(viii) Under Sub-Clause (iv)

Section 40(a)(iv)- any payment to a provident or other fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to secure that tax shall be deducted at source from any payments made from the fund which are chargeable to tax under the head "Salaries"

CLAUSE 21(b)

(ix) Under Sub-Clause (v)

Section 40(a)(v)- Any tax actually paid by an employer referred to in Clause (10CC) of Section 10.

Section 10(10CC)- in the case of an employee, being an individual deriving income in the nature of a perquisite, not provided for by way of monetary payment, within the meaning of Sec. 17(2), the tax on such income actually paid by his employer, at the option of the employer, on behalf of such employee, notwithstanding anything contained in sec. 200 of Companies act, 1956.

CLAUSE 21(b)

e-utility also provides facility to import CSV template to fill the details in Clause 21(b) along with CSV template with specified format.

As per e-utility software

(B) Details of payment on which tax has been deducted but has not been paid during the previous year or in the subsequent year before the expiry of time prescribed under section 200(1)

S.No.	Date of payment	Amount of payment	Nature of payment	Name of the payee	PAN of the Payee, if available	Address Line 1	Address Line 2	City or Town or District	Pincode	Amount of tax deducted
1										

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(ii) as payment referred to in sub-clause (ia)

(A) Details of payment on which tax is not deducted:

S.No.	Date of payment	Amount of payment	Nature of payment	Name of the payee	PAN of the payee, if available	Address Line 1	Address Line 2	City or Town or District	Pincode
1									

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(B) Details of payment on which tax has been deducted but has not been paid on or before the due date specified in sub-section (1) of section 139.

S.No.	Date of payment	Amount of payment	Nature of payment	Name of the payer	PAN of the Payer, if available	Address Line 1	Address Line 2	City or Town or District	Pincode	Amount of tax deducted	Amount out of (VI) deposited, if any
1											

For all the items of TDS, .CSV templates can be downloaded and then filled up in excel and later imported into the utility

Clause 21(c)

Amounts debited to profit and loss account being, interest, salary, bonus, commission or remuneration inadmissible under Section 40(b)/40(ba) and computation thereof;

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S.No.		Particulars	Section	Amount debited to P/L A/C	Amount admissible	Amount inadmissible	Remarks
1		Select	Select				
<div><div><div><div><div></div><div></div></div><div><div></div><div></div></div></div><div><div><div>+ Add</div><div>X Delete</div></div><div><div>Select</div><div>Interest</div><div>Salary</div><div>Bonus</div><div>Commission</div><div>Remuneration</div></div></div><div><div>Select</div><div>40(b)</div><div>40(ba)</div></div></div></div>							

Amount debited to profit and loss account being, interest, salary, bonus, commission or remuneration inadmissible under section 40(b)/40(ba) and computation thereof

The tax auditor is required to state the inadmissible amount under section 40(b)/40(ba) and such information is required to be given in respect of interest/ remuneration paid to partner of partnership firm / LLP or a member of an Association of persons (AOP)/Body of individuals (BOI). The word "inadmissible" implies that the tax auditor will have to examine the facts, apply the conditions for allowance or disallowance and accordingly determine the prima facie inadmissibility of the deduction and also quantify the same.

Salary, bonus, commission or remuneration or interest are not admissible, unless the following conditions are satisfied:

- Remuneration is paid to working partner(s).
- Remuneration or interest is authorised by the partnership deed / LLP Agreement and is in accordance with the partnership deed / LLP Agreement.
- Remuneration or interest does not pertain to a period prior to the date of execution of partnership deed / LLP Agreement.
- Remuneration does not exceed the limits prescribed under section 40(b).
- Interest does not exceed the simple interest calculated at the rate of 12%.

CLAUSE – 21(d)

(d) Disallowance/deemed income under section 40A(3):

(A) On the basis of the examination of books of account and other relevant documents/evidence, whether the expenditure covered under section 40A(3) read with rule 6DD were made by account payee cheque drawn on a bank or account payee bank draft. If not, please furnish the details:

		Serial number	Date of payment	Nature of payment	Amount	Name and Permanent Account Number of the payee, if available
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(B) On the basis of the examination of books of account and other relevant documents/evidence, whether the payment referred to in section 40A(3A) read with rule 6DD were made by account payee cheque drawn on a bank or account payee bank draft. If not, please furnish the details of amount deemed to be the profits and gains of business or profession under section 40A(3A);

		Serial number	Date of payment	Nature of payment	Amount	Name and Permanent Account Number of the payee, if available
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(d) Disallowance/deemed income under section 40A(3):


(A) On the basis of the examination of books of account and other relevant documents/evidence, whether the expenditure covered under section 40A(3) read with rule 6DD were made by account payee cheque drawn on a bank or account payee bank draft. If not, please furnish the details:

Select 



S.No.		Date Of Payment	Nature Of Payment	Amount	Name of the payee	Permanent Account Number of the payee, if available
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

 Add
  Delete

(B) On the basis of the examination of books of account and other relevant documents/evidence, whether the payment referred to in section 40A(3A) read with rule 6DD were made by account payee cheque drawn on a bank or account payee bank draft. If not, please furnish the details of amount deemed to be the profits and gains of business or profession under section 40A(3A);

Select 

S.No.		Date Of Payment	Nature Of Payment	Amount	Name of the payee	Permanent Account Number of the payee, if available
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

 Add
  Delete

Disallowance / deemed income u/s 40A(3)/ 40A(3A)

It should be noted that cash expenditure limit per person per day has been decreased from AY 2018-19 from Rs. 20000/- to Rs.10000/-.

The Tax Auditor should obtain a list of all the cash payments exceeding Rs.10,000/- per person per day (Rs.35,000 in case of plying, hiring or leasing goods carriages) made by the assessee during the relevant year which should include the list of payments exempted in terms of Rule 6DD with reasons. This list should be verified by the tax auditor with the books of account in order to ascertain whether the conditions for specific exemption granted under clauses of Rule 6DD are satisfied. Details of payments which do not satisfy the above conditions should be stated under this clause.

In case expenditure is incurred in earlier previous years, but payment is made in the previous year under tax audit, then also the limits discussed above needs to be verified and payments made in excess of the limits would be deemed to be income of current previous year u/s 40A(3A) and is to be reported in clause 21(d)(B).

The tax auditor has to take into account the technological advancements in the field of banking and information technology. It may be noted that with the advancement in technology, use of electronic payment system such as RTGS/NEFT, etc, are widely used. In case the payments are made electronically, then it can be contented that such payments are not liable for disallowance as the main intention of provisions of sec. 40(3)/ (3A) is to restrict the use of cash in transactions exceeding Rs.10000/-

It is also to be verified that the payment was made by account payee cheque or account payee draft. Crossed cheques are not account payee as held in few cases.

There the assessee did not possess necessary evidence to enable the auditor to verify that the payment made was through account cheque or account payee draft, the same should be accordingly reported, which may be as under:

Though we have not noticed any payment in excess of Rs.10000/- or Rs. 35000/- (in case of plying, hiring or leasing goods carriages) have been made in contravention of section 40A(3) / 40(3A) read with rule 6DD, however the assessee did not possess necessary evidence to verify the same.

Rule 6DD.....

Notification No 208/2007, dt 27.06.2007

Rule 6DD- No disallowance of sum exceeding Rs 20,000 made to a person in a day otherwise than by a/c payee cheque or draft for payment for following:

- Payment made to – RBI, SBI, Cooperative/land mortgage Bank, Primary Agricultural Credit Society, LIC
- Payment to Govt. for legal tender
- Payment made by- LC, Mail or Telegraphic t/f, Book adjustment in bank or inter bank, BE, ECS, Credit card, Debit card
- Payment made by way of adjustment against the amount of any liability incurred by the payee for any goods supplied or services rendered by the assessee to such payee.

Rule 6DD.....

➤ Payment for purchase of

- Agriculture or forest produce
- Production of animal husbandry.
- Fish or fish products
- Products of horticulture or apiculture

- Payment for purchase of product produced without aid of power in cottage industry.
- Payment made in village or town & date of payment is not served by bank.
- Payment not exceeding Rs 50,000 by an assessee to his employee or his heirs as gratuity, retrenchment compensation etc.
- Payment of Salary to employee (Sec 192).
- Payment made on date when banks were closed.
- Payment made by person to his agent who requires to make cash payment for goods.
- Payment by authorized dealer for purchase of foreign currency

CLAUSE – 21(e)

Provision for gratuity not allowable u/s 40A(7)

- Details of provision made for gratuity but not paid would be disallowed u/s 40A(7) and is to be disclosed under this clause.
- The tax auditor should verify from the assessee, the order of the Commissioner of Income-tax granting approval to the gratuity fund, verify the date from which it is effective and also verify whether the provision has been made as provided in the deed.
- If the assessee has not provided or made contribution to the approved Gratuity fund, then the Tax Auditor needs to verify the reporting in this clause.

CLAUSE – 21(f)

Any sum paid by the assessee as an employer not allowable under section 40A (9);

Section 40A(9) disallows expenditure incurred on setting up or formation of, or as contribution to, any fund, trust, company, association of persons, body of individuals, society registered under the Societies Registration Act, 1860, or other institution for any purpose, except where such sum is so paid, for the purposes and to the extent provided by or under clause (iv) or clause (iva) or clause (v) of subsection (1) of section 36, or as required by or under any other law for the time being in force.

Under this clause, the Tax Auditor is required to report details of payments which are not allowable under this section.

CLAUSE – 21(g)

Particulars of any liability of a Contingent nature

The Tax Auditor should be mindful of distinction between the Contingent Liability and the Provision. The Tax Auditor should scrutinize the accounts relating to Provisions/ Outstanding Liabilities to ensure that they do not contain any provision for contingent Liabilities.

The Tax Auditor should also refer the Accounting Policies adopted by the assessee as mentioned in the Financial Statements in this regard.

Further, the Tax Auditor should check whether Contingent liability disclosed in earlier years have been provided in the books in the relevant previous year; if yes, then the basis for provision of the same.

CLAUSE – 21(h)

Amount of deduction inadmissible in terms of section 14A in respect of the expenditure incurred in relation to income which does not form part of the total income.

➤ The Tax Auditor is required to report the amount of expenditure incurred by an assessee in relation to an income which is exempt under the Act.

➤ The tax auditor should examine the details of amount of inadmissible expenditure as furnished by the assessee. While carrying out such examination the tax auditor is entitled to rely on the management representation. However, Standard on Auditing (SA) 580, Written Representations may be referred to.

➤ The tax auditor will verify the amount of inadmissible expenditure as estimated by the assessee with reference to established principles of allocation of expenditure based on logical parameters like proportion of exempt and taxable income recorded, turnover, man-hours spent to earn the relevant income etc.

➤ The tax auditor should also verify the amount disallowable as per rule 8D.

CLAUSE – 21(i)

Amount inadmissible under the proviso to section 36(1) (iii).

The said provision was amended by Finance Act 2015 and is in line with ICDS IX (Borrowing Costs), where interest paid in respect of amount borrowed for purpose of business is not allowed till the date asset was first put to use.

The Tax Auditor while reporting under this sub clause should refer to the Accounting Policy adopted by the assessee in this regard. He should evaluate whether the Accounting Policy is in line with principles laid down in AS-16.

CLAUSE 22

Insertion by the IT (Tenth Amdt.) Rules, 2009, or CBDT N. No. 36/2009 dated 13-04-2009

22. Amount of interest inadmissible under section 23 of the Micro, Small and Medium Enterprises Development Act, 2006.

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22 Amount of interest inadmissible under section 23 of the Micro, Small and Medium Enterprises Development Act, 2006.

Interest inadmissible u/s 23 of MSMED Act, 2006

This clause is applicable to all the assesseees and requires Tax Auditor to report the amount of interest inadmissible u/s 23 of the Micro, Small and Medium Enterprises Development Act, 2006 (MSMED, Act 2006). As per the said section, any interest for delayed payment to Micro, Small and Medium Enterprises is not allowed as deductible expenditure while computing the income of the assessee under the Income Tax Act, 1961. Few important provisions of MSMED Act, 20016 are as under:-

Section 15 of MSMED Act, 2006.

This section requires the buyer to make payment on or before the date agreed upon in writing, or where there is no agreement in this behalf, before the appointed day. It also provides that the period agreed upon in writing shall not exceed 45 days from the day of acceptance or the day of deemed acceptance.

Section 16 of MSMED Act, 2006.

Section 16 of the MSME Act provides for the date from which and the rate at which the interest is payable. Accordingly, where a buyer fails to make payment of the amount to the supplier, as required u/s 15, the buyer shall, be liable to pay compound interest with monthly rests to the supplier on that amount from the appointed date or, as the case may be, from the date immediately following the date agreed upon, at 3 times of the bank rate notified by the Reserve Bank.

Section 22 of MSMED Act, 2006.

This section provides that where any buyer is required to get his annual accounts audited u/s 44AB of Income tax Audit, 1961 or under any law, such buyer shall furnish the following additional information in his annual statement of accounts, namely:-

- The principal amount and interest due thereon (to be shown separately) remaining unpaid.
- The amount of interest paid by the buyer in terms of Section 16 along with the amount of payment made to supplier beyond the appointed date during each accounting year.
- The amount of interest due and payable for the delay in making payment (which have been paid but beyond the appointed day during the year) but without adding the interest specified under this Act
- The amount of interest accrued and remaining unpaid at the end of each accounting year.
- The amount of further interest remaining due and payable even in the succeeding years, until such date when the interest dues as above are actually paid to the small enterprise, for the purpose of disallowance as a deductible expenditure u/s 23

Section 23 of MSMED Act, 2006

This section provides that notwithstanding anything contained in the Income-tax Act, 1961, the amount of interest payable or paid by any buyer, under or in accordance with the provisions of this Act, shall not, for the purposes of computation of income under the Income-tax Act, 1961, be allowed as deduction

Auditors Role

- Obtain list of suppliers from the assessee, which are covered under the MSMED Act, 2006 in confirmation with which obtain Registration Certificate along with details of transaction covered into and balance outstanding.
- Review the list so obtained, also cross check the list with the disclosures made in the financial statements as per section 22 mentioned above.
- Obtain ageing analysis of such suppliers so as to ascertain outstanding beyond agreed period or 45 days as the case may be (follow section 15 as mentioned above).

- Check whether any interest due to them or paid during the year in terms of section 16 of MSMED Act, 2006 as mentioned above which has been debited or provided for in the books of account. Tax auditor can apply test checks in this regard.
- Verify the additional information provided by the auditee relating to interest u/s 16 in his financial statement.
- If on test check basis, the auditor is satisfied, then the amount so debited to the profit and loss account should be reported under clause 22. In case there is no interest inadmissible, then it should be mentioned 'NIL' under this clause.
- In case the assessee does not have the relevant information to be reported in this clause ensure to disclose the same, which could be as under:
- The entity does not have relevant information regarding any micro or small enterprise which is registered under the provisions of the Micro, Small and Medium Enterprises Development Act, 2006. Hence amount due and interest payable is not ascertainable.

CLAUSE – 23

23. Particulars of payments made to persons specified under section 40A(2)(b).

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23 Particulars of any payment made to persons specified under section 40A(2)(b).

S.No.		Name of Related Person	PAN of Related Person	Relation	Nature of trasaction	Payment Made(Amount)
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<div><input type="button" value="+ Add"/> <input type="button" value="X Delete"/></div>						

S. No. 23: Payments made to persons specified u/s 40A(2)(b)

This clause is applicable to all the assesseees and requires the Tax Auditor to report payments made by the assessee during the previous year to the persons specified u/s 40A(2)(b). These persons are generally termed as 'Related Parties'. It may be noted that relationships/parties covered under AS-18 are not identical.

Section 40(A)(2) provides that expenditure for which payment has been or is to be made to certain specified persons may be disallowed if, in the opinion of the Assessing Officer, such expenditure is excessive or unreasonable having regard to:

- the fair market value of the goods, services or facilities for which the payment is made;
- for the legitimate needs of business or profession of the assessee;
- the benefit derived by or accruing to the assessee from such expenditure.

Auditor Role




- Obtain full list of specified persons as contemplated in this section.
- Obtain details of expenditure/payments made to the specified persons.
- Scrutinise all items of expenditure/payments to the above persons.
- Review the list of transactions with the Related Party disclosures made in the financial statements under AS-18 (AS-18 disclosures are required for all assesses including partnership firms and sole proprietorships). Also follow the guidance for audit procedures as given under SA-550 on Related Parties.
- Ensure reporting above mentioned payments under this clause.
- Salaries and perquisites etc. paid to directors or persons having substantial interest in the company should be included in the list referred to above.
- The Tax Auditor is not required to comment on the reasonableness or otherwise of such payments.
- In case of voluminous transactions, the Tax Auditor may consider grouping the similar transaction based on their nature and disclose such consolidated information as per their nature individual party wise.

CLAUSE – 24

24	Amounts deemed to be profits and gains under section 32AC or 32AD or 33AB or 33ABA or 33AC.
----	---

Format in e-utility

24	Amounts deemed to be profits and gains under section 32AC or 32AD or 33AB or 33AC or 33ABA.
----	---

S.No.		Section	Description	Amount
1	<input type="checkbox"/>	Select 	<input type="text"/>	<input type="text"/>
<div> Add  Delete</div>				


Sl No	Sections	Particulars
1	32AC	Investment in new plant or machinery.
2	32AD	Investment in new plant or machinery in notified backward areas in certain States.
3	33AB	Tea development account, coffee development account and rubber development account.
4	33AC	Reserves for shipping business.
5	33ABA	Site Restoration Fund.



CLAUSE – 25

25. Any amount of profit chargeable to tax under section 41 and computation thereof.

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25 Any amount of profit chargeable to tax under section 41 and computation thereof.

S.No.		Name of person	Amount of income	Section	Description of Transaction	Computation if any
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	Select 	<input type="text"/>	<input type="text"/>

 Add  Delete

Deemed Profits / Gains u/s 41

S. No. 25 applies to all assessees and requires the tax auditor to report the amount covered u/s 41 along with computation.

Section 41(1) : Reversal/writing back of trading liability

Under this section if any allowance or deduction that had been allowed to assessee in respect of any loss, expenditure or trading liability in any assessment year and in later years if assessee obtains such amount, then the same shall be chargeable to tax as business income.

If the assessee has written back some liability in the books of accounts and the expenditure represented by such liability had been allowed as deduction in any previous year, then such write back shall be taxable as business income.

Section 41(2) : Sale of assets of undertaking

Any building, machinery or plant which is owned by assessee and whose depreciation is claimed u/s 32 and it has been used for business purpose, is sold, discarded, demolished or destroyed and the money receivable along with scrap value exceeds the WDV, then the excess amount (which does not exceed the difference between actual cost and WDV) shall be chargeable to tax as business income.

It is also applicable to assesses engaged in generation and distribution of power and who have claimed depreciation on fixed assets u/s 32(1)(i) of the act.

Continuation of business during previous year is not a relevant criteria for taxability under this sub section.

Section 41(3) : Sale of assets used in scientific research

Any capital asset used in scientific research is sold without being used for other purposes and the proceeds of sale along with the total amount of deductions exceeds the amount of capital expenditure, then such excess or amount of deduction allowed, whichever is less, is chargeable as business income in year of sale.

Provisions of section 41(3) will not apply if the asset has been used for other business purposes as well.

Continuation of business during previous year is not a relevant criteria for taxability under this sub section.

Section 41(4) : Recovery of Bad Debts allowed earlier

In case of deduction allowed in respect of bad debts in previous years and subsequently any amount recovered on such debt, which is greater than difference between debt and deduction allowed, then such excess shall be deemed to be the business income and chargeable to tax in the year of recovery of bad debts.

Continuation of business during previous year is not a relevant criteria for taxability under this sub section.

Section 41(4A) : Withdrawal from special reserve

In case of deduction allowed earlier in respect of special reserve created and maintained u/s 36(1)(viii) and any subsequent withdrawal from such reserve shall be deemed to be the profits and gains of business and profession and shall be chargeable to tax.

Continuation of business during previous year is not a relevant criteria for taxability under this sub section.

Section 41(5) : Adjustment/ Set off of loss

If the business and profession referred in this sub section is not in existence and there is income chargeable to tax under sub-section (1), (3) or (4A) and if there is any loss arising from such business or profession (not being speculative loss) which could not be set off against any other income of that previous year can be set off against the income chargeable to tax under the above mentioned sub sections.

CLAUSE – 26

26. In respect of any sum referred to in clauses (a),(b), (c), (d), (e), (f) or (g) of section 43B, the liability for which:—

(A) pre-existed on the first day of the previous year but was not allowed in the assessment of any preceding previous year and was

(a) paid during the previous year;

(b) not paid during the previous year;

(B) was incurred in the previous year and was

(a) paid on or before the due date for furnishing the return of income of the previous year under section 139(1);

(b) not paid on or before the aforesaid date.

(State whether sales tax, customs duty, excise duty or any other indirect tax, levy, cess, impost, etc., is passed through the profit and loss account.)

CLAUSE – 26

Format in e-utility

26 (i) In respect of any sum referred to in clause (a),(b),(c),(d),(e),(f) or (g) of section 43B, the liability for which:-

(A) pre-existed on the first day of the previous year but was not allowed in the assessment of any preceeding previous year and was

(a) paid during the previous year;

S.No.	Section	Nature of liability	Amount
1			

[CSV Template](#) [Help](#)

(b) not paid during the previous year;

S.No.	Section	Nature of liability	Amount
1			

[CSV Template](#) [Help](#)

(B) was incurred in the previous year and was

(a) paid on or before the due date for furnishing the return of income of the previous year under section 139(1);

S.No.	Section	Nature of liability	Amount
1			

[CSV Template](#) [Help](#)

(b) not paid on or before the aforesaid date.

S.No.	Section	Nature of liability	Amount
1			

[CSV Template](#) [Help](#)

(state whether sales tax,goods & services Tax, customs duty, excise duty or any other indirect tax,levy,cess,impost etc.is passed through the profit and loss account.)

Select

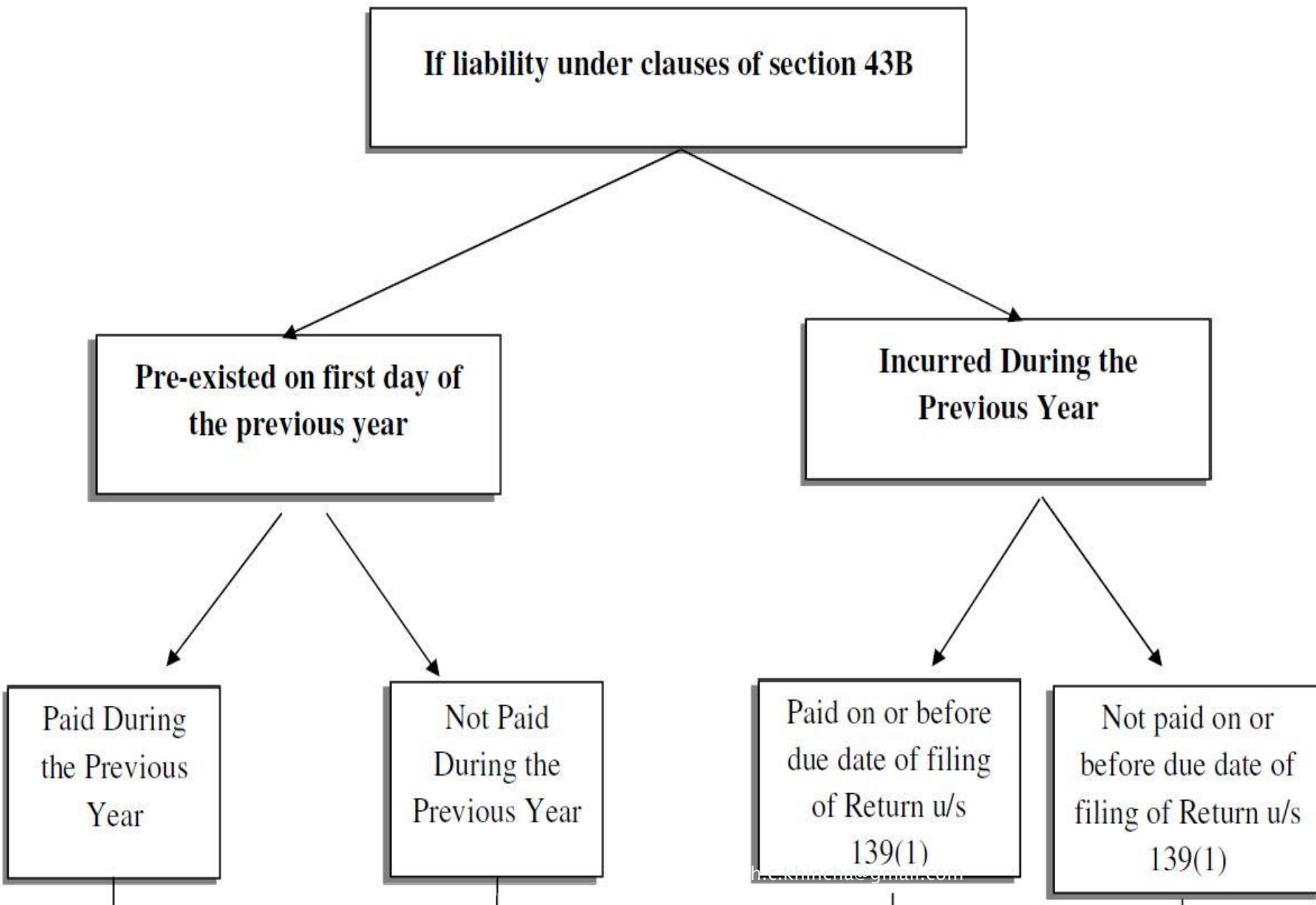
Clause 26 applies to all assesses who follow mercantile system of accounting. Section 43B deals with 7 categories of items:

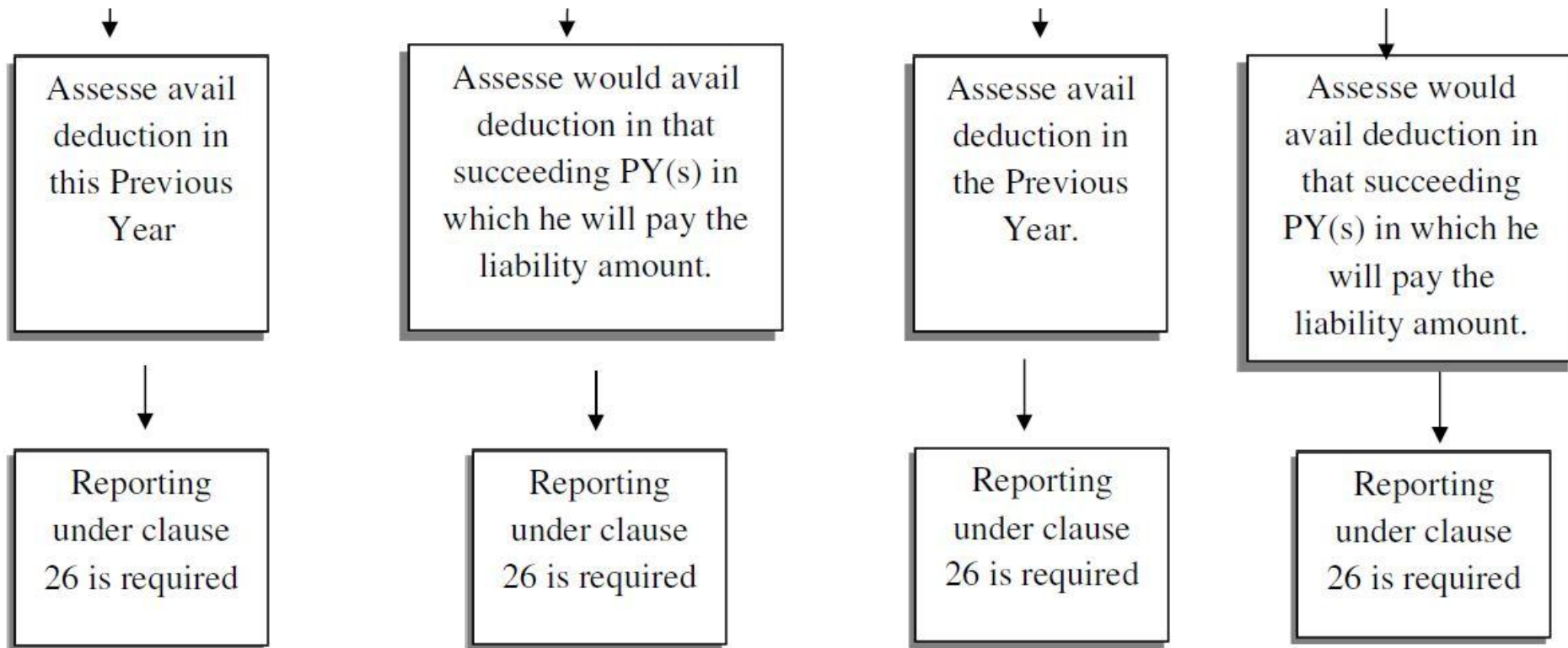
a) Any tax, duty (sales tax, value added tax, service tax, excise duty, GST, municipal/property tax, etc.), cess or fee, by whatever name called, payable by the assessee under any law for the time being in force. It does not include income tax.

b) Any sum payable as an employer by way of contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees.

- c) Any bonus or commission payable by the assessee to its employees for services rendered, where such sum would not have been payable to him as profits or dividend, if it had not been paid as bonus or commission.
- d) Interest on any loan or borrowing from any public financial institution, a state financial corporation or a state industrial investment corporation payable in accordance with the terms and conditions of the agreement governing such loan or borrowing.
- e) Any sum payable by the assessee as interest on any loan or advances from a scheduled bank in accordance with the terms and conditions of the agreement governing such loan or advances.
- f) Any sum payable by the assessee as an employer in lieu of any leave at the credit of his employee
- g) Any sum payable by the assessee to the Railways for the use of railway assets. Reporting under this clause has been inserted w.e.f. 20th August 2018.

Reporting under clause 26 is summarized in the following chart:





It is also to be stated that whether the indirect taxes, etc are passed through profit & loss account or not.

CLAUSE – 27

(a) Amount of Central Value Added Tax credits availed of or utilised during the previous year and its treatment in the profit and loss account and treatment of outstanding Central Value Added Tax credits in the accounts.

(b) Particulars of income or expenditure of prior period credited or debited to the profit and loss account.

CLAUSE – 27

Format in e-utility

27 (a) Amount of Central Value Added Tax Credits/ Input Tax Credit(ITC) availed of or utilised during the previous year and its treatment in profit and loss account and treatment of outstanding Central Value Added Tax Credits/Input Tax Credit(ITC) in accounts.

Select







CENVAT/ITC	Amount	Treatment in Profit & Loss/Accounts
Opening Balance	<input type="text"/>	<input type="text"/>
Credit Availed	<input type="text"/>	<input type="text"/>
Credit Utilized	<input type="text"/>	<input type="text"/>
Closing /outstanding Balance	<input type="text"/>	<input type="text"/>

CLAUSE – 27

Format in e-utility

(b) Particulars of income or expenditure of prior period credited or debited to the profit and loss account.

S.No.		Type	Particulars	Amount	Prior period to which it relates(Year in yyyy-yy format)
1	<input type="checkbox"/>	Select 	<input type="text"/>	<input type="text"/>	Select 
<div> Add  Delete</div>					

Clause 27(a) - CENVAT Credit/Prior Period Items

Clause 27(a) - Amount of modified value added tax credits availed of or utilized during the previous year and its treatment in the profit and loss account.

- The Tax Auditor should obtain the list of CENVAT Credit Availed and Utilised by the Assessee during the relevant period. If list is not available then scrutinize the CENVAT Ledger.
- The Tax Auditor needs to ensure that amounts as presented in the returns matches with the underlying records and books of account.
- The Tax Auditor if encounter any mismatch between accounting records and Excise/Service records, check whether Reconciliation in respect of such difference has been prepared.
- In the Schema available on the ITD website it also includes ITC (GST).
- Hence the details may be given.

Clause 27(b) - Particulars of income or expenditure of prior period credited or debited to the profit and loss account.

- The concept of Prior Period Items is applicable only in case of Mercantile System of Accounting.
- The Tax Auditor should obtain the list of Prior Period Items identified by the Assessee.
- Disclosure of the identification should be made in the Financial Statements as per AS-5.
- The Tax Auditor Should Scrutinize Various Expenditure/Income Accounts to ensure such items are accounted in the Relevant Previous Year.

CLAUSE - 28

28. Whether during the previous year the assessee has received any property, being share of a company not being a company in which the public are substantially interested, without consideration or for inadequate consideration as referred to in section 56(2)(viia), if yes, please furnish the details of the same.

CLAUSE - 28

28 Whether during the previous year the assessee has received any property, being share of a company not being a company in which the public are substantially interested, without consideration or for inadequate consideration as referred to in section 56(2)(viia),
if yes, please furnish the details of the same

Select

Format in e-utility

S.No.		Name of the person from which shares received	PAN of the person, if available	Name of the company whose shares are received	CIN of the company	No. of Shares Received	Amount of consideration paid	Fair Market value of the shares
1	<input type="checkbox"/>							

Provisions of section 56(2)(viia) are not applicable w.e.f. AY 2018-19.

In this clause mention – NA.

CLAUSE 29

29. Whether during the previous year the assessee received any consideration for issue of shares which exceeds the fair market value of the shares as referred to in section 56(2)(viib), if yes, please furnish the details of the same.

Format in e-utility

29 Whether during the previous year the assessee received any consideration for issue of shares which exceeds the fair market value of the shares as referred to in section 56(2)(viib)
if yes, please furnish the details of the same

Select

S.No.		Name of the person from whom consideration received for issue of shares	PAN of the person, if available	No. of Shares issued	Amount of consideration received	Fair Market value of the shares
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<div><input type="button" value="+ Add"/> <input type="button" value="X Delete"/></div>						

Section 56(2) (viib) provides that where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares shall be chargeable to income-tax under the head “**Income from other sources**”. **Thus, provisions of** this clause are applicable only when the shares are issued at more than the face value i.e. at a premium.

The auditor should obtain from the auditee, a list containing the details of shares issued, if any, by him to any person being a resident and verify the same from the books of accounts and other relevant documents.

The auditor needs to verify that the valuation of shares in case the unlisted company assesses issues shares beyond face value and verify that is in accordance with Rule 11UA read with Rule 11U of the income Tax Rules, 1962.

In case shares are valued at discounted cash flow method (DCF), it should have been valued by a merchant banker of a FCA in practice who is not a statutory auditor or tax auditor of the company.

Followings should not be reported under this clause:

- Shares issued to non-residents.
- Shares issued by company in which public are substantially interested
- Shares issued by Venture Capital Undertaking from Venture Capital Company or Venture Capital fund as defined in 10(23FB)
- Shares issued by start-up companies w.e.f. 14.6.2016
- Shares issued at face value.
- Shares issued at or below fair market value determined as per Rule 11UA

CLAUSE – 29A

Inserted vide Notification No. 33/2018 dated 20/07/2018.

(a) Whether any amount is to be included as income chargeable under the head 'income from other sources' as referred to in clause (ix) of sub-section (2) of section 56? (Yes/No)

(b) If yes, please furnish the following details:


(i)	Nature of income
-----	------------------

(ii)	Amount thereof
------	----------------


CLAUSE – 29(A)

Format in e-utility

A(a) Whether any amount is to be included as income chargeable under the head 'income from other sources' as referred to in clause (ix) of sub-section (2) of section 56?

Select 

(b) If yes, please furnish the following details:

S.No.		Nature of income	Amount
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>
<div> Add  Delete</div>			

Whether any amount is to be included as income chargeable under the head 'income from other sources' as referred to in section 56(2)(ix)?

- As per section 56(2)(ix) of the Act, if any sum of money is received as an advance or otherwise in the course of negotiations for transfer of a capital asset and if such sum is forfeited or the negotiations do not result in transfer of such capital asset, then the same would be taxable as income under the head '**Income from Other Sources**'.
- The tax auditor is required to report the nature of such income and the amount involved.
- The auditor should ensure that:
 - The assessee has received an advance against any capital asset i.e., Immovable Property, Plant, Machinery, etc
 - Peruse the agreement and forfeiture clauses contained therein through which advance is received for the capital asset.
 - Obtain balance confirmations from third parties against whose names advances are shown in the assessee's balance sheet.
 - Obtain management representation from the assessee that the advance received has been forfeited or not and report accordingly.

CLAUSE – 29B

(a) Whether any amount is to be included as income chargeable under the head 'income from other sources' as referred to in clause (x) of sub-section (2) of section 56? (Yes/No)
--

(b) If yes, please furnish the following details:

(i) Nature of income

CLAUSE – 29B

Format in e-utility

B(a) Whether any amount is to be included as income chargeable under the head 'income from other sources' as referred to in clause (x) of sub-section (2) of section 56? (Yes/No)

(b) If yes, please furnish the following details:

Select



S.No.		Nature of income	Amount (in Rs.)
1	<input type="checkbox"/>		
<div><div> Add</div><div> Delete</div></div>			

Whether any amount is to be included as income chargeable under the head 'income from other sources' as referred to in section 56(2)(x)?

S. 56(2)(x) as amended w.e.f. AY 2018-19 provides that where any person receives, from any person or persons :

A) any amount exceeding Rs 50,000/- without consideration then he needs to declare such amount as '**Income from other sources**' subject to certain exemptions.

B) any immovable property,—

➤ without consideration, the stamp duty value of which exceeds Rs.50000/-;
OR

➤ for a consideration which is less than the stamp duty value of the property by an amount exceeding Rs. 50000/-, the stamp duty value of such property as exceeds such consideration:

C) any property, other than immovable property,—

- without consideration, the aggregate fair market value of which exceeds Rs. 50000/-, the whole of the aggregate fair market value of such property; OR
- for a consideration which is less than the aggregate fair market value of the property by an amount exceeding Rs. 50000/-, the aggregate fair market value of such property as exceeds such consideration :
- ▶ then he needs to declare such amount as **‘Income from other sources’** subject to certain exemptions.
- This clause includes various capital assets including immovable property, shares, etc.
- With respect to **quoted shares & securities**, the auditor has to consider the following provisions which provides for manner of determining:
 - ▶ Fair market value (FMV) of quoted shares and securities received by way of transaction carried out through any recognized stock exchange.
 - ▶ FMV of quoted shares and securities received by way of transaction carried out **OTHER THAN** through any recognized stock exchange.

With respect to **unquoted shares & securities**, the auditor should **consider the** following:

- Ensure that acquisition should be through transfer and not through issue of fresh shares
- Verify the FMV of unquoted shares and securities as per rule 11UA / 11U
- Where FMV exceeds the cost of acquisition of the capital asset being shares and securities by Rs. 50000/- in aggregate, then the same should be reported in this clause.

With respect to **immovable property**, the auditor should **consider the** following:

- Immovable property under this clause covers land, or building or both. According to certain cases leasehold land / building is neither land nor building covered u/s 50C.
- Where the difference between transaction value and stamp duty value exceeds Rs. 50000/- the same needs to be reported under this clause.

The assessee has right to contest the FMV before AO

However, where the assessee has adequate evidence that the FMV does not exceed the consideration for acquisition by Rs. 50000/- and claims the consideration to be fair market value and intends to contest the same as per the provisions of s. 56(2)(x) read with s.50C(2), obtain a management representation accordingly.

Further the auditor in his report in Form 3CA/ 3B should comment the following regarding this:


- Stamp duty Value of immovable property
- Consideration (transaction value) for acquisition of property
- That the assessee is of the view that FMV does not exceed the consideration and he intends to contest the same before the assessing officer.



CLAUSE - 30

Details of any amount borrowed on hundi or any amount due thereon (including interest on the amount borrowed) repaid, otherwise than through an account payee cheque. [Section 69D]

CLAUSE - 30

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30	Details of any amount borrowed on hundi or any amount due thereon (including interest on the amount borrowed) repaid, otherwise than through an account payee cheque. [Section 69D]	Select 
----	---	--

S.No.		Name of the person from whom amount borrowed or repaid on hundi	PAN of the person, if available	Address Line 1	Address Line 2	City or Town or District	State	Pincode	Amount borrowed	Date of Borrowing	Amount due including interest	Amount repaid	Date of Repayment
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Select	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<div> Add  Delete</div>													

CLAUSE - 30

Details of any amount borrowed on hundi or any amount due thereon (including interest on the amount borrowed) repaid, otherwise than through an account payee cheque. [Section 69D]

This clause is applicable to all assesseees who have borrowings on Hundi or repayment thereof, otherwise than an account payee cheque. Further requires the Tax auditor to report the compliance with the provisions of **section 69D of the Act dealing with** borrowing on Hundi and repayment thereof.

Provisions of Section 69D:

The term 'Hundis' has not been defined under the Act. However, the CBDT Circular NO. 208, dated 15 November 1976 explains the scope and characteristics of the said term to be Promissory Note drawn in a vernacular language.

Amount borrowed on Hundi or Repayment of the same (including interest) has to be made by account payee cheque.

If not through account payee cheque, the amount borrowed or repaid will be considered as Income in the year of borrowing or repayment.

If borrowing is taxed then repayment will not be taxed again in the year of Repayment

Account payee draft should also be treated as account payee cheque and the provisions of section 69D are not contravened if the transaction is through account payee draft.

The auditors should:

Obtain a complete list of borrowings and repayments of hundi loans otherwise than by account payee cheques and verify the same with the books of account.

There will be practical difficulties in verifying the loan taken or repaid on hundi by account payee cheque.

In such cases, the tax auditor should verify the borrowing/repayments with reference to such evidence which may be available and in the absence of conclusive or satisfactory evidence, the auditor may obtain suitable certificate/management representation in this regard.

It also includes reporting of the name of the parties involved, date, the amount, and other particulars may be given. The e-filing portal gives the format in which the details are to be given.

Check the bank book and bank statements.

CLAUSE – 30A

Inserted vide Notification No. 33/2018 dated 20/07/2018.

30A. (a) Whether primary adjustment to transfer price, as referred to in sub-section 1) of section 92CE, has been made during the previous year? (Yes/No)

(b) If yes, please furnish the following details:—

- i. Under which clause of sub-section (1) of section 92CE primary adjustment is made?
- ii. Amount (in Rs.) of primary adjustment:
- iii. Whether the excess money available with the associated enterprise is required to be repatriated to India as per the provisions of sub-section (2) of section 92CE? (Yes/No)
- iv. If yes, whether the excess money has been repatriated within the prescribed time (Yes/No)
- v. If no, the amount (in Rs.) of imputed interest income on such excess money which has not been repatriated within the prescribed time.

CLAUSE – 30A

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A(a) Whether primary adjustment to transfer price, as referred to in sub-section (1) of section 92CE, has been made during the previous year.

Select



(b) If yes, please furnish the following details

S.No.		Under which clause of sub-section (1) of section 92CE primary adjustment is made ?	Amount (in Rs.) of primary adjustment	Whether the excess money available with the associated enterprise is required to be repatriated to India as per the provisions of sub-section (2) of section 92CE.	If yes, whether the excess money has been repatriated within the prescribed time.	If no, the amount (in Rs.) of imputed interest income on such excess money which has not been repatriated within the prescribed time	Expected date of repatriation of money
1	<input type="checkbox"/>	Select		Select	Select		DD/MM/YYYY
<div><div> Add</div><div> Delete</div></div>							

Secondary adjustments in certain cases [section 92CE] [Clause 30A]:

If any primary adjustment to transfer price during the previous year has been made u/s 92CE(1), only then the below details need to be provided

Provide the sub-section under which the primary adjustment is made

Amount of the primary adjustment in INR

Whether the excess money available with the associated enterprise (AE) is required to be repatriated to India under section 92CE(2) of the Act?

Yes

Whether the excess money has been repatriated within the prescribed time

No

Provide the amount of imputed interest income in INR, on such excess money, which has not been repatriated within the prescribed time

30A – Details about “Primary Adjustments” in transfer pricing to be reported here as per Section 92CE.

[Secondary adjustment in certain cases.

92CE. (1) Where a primary adjustment to transfer price,—

- (i) has been made suo motu by the assessee in his return of income;
- (ii) made by the Assessing Officer has been accepted by the assessee;
- (iii) is determined by an advance pricing agreement entered into by the assessee under section 92CC;
- (iv) is made as per the safe harbour rules framed under section 92CB; or
- (v) is arising as a result of resolution of an assessment by way of the mutual agreement procedure under an agreement entered into under section 90 or section 90A for avoidance of double taxation, the assessee shall make a secondary adjustment:

Provided that nothing contained in this section shall apply, if,—

- (i) the amount of primary adjustment made in any previous year does not exceed one crore rupees; and
- (ii) the primary adjustment is made in respect of an assessment year commencing on or before the 1st day of April, 2016.

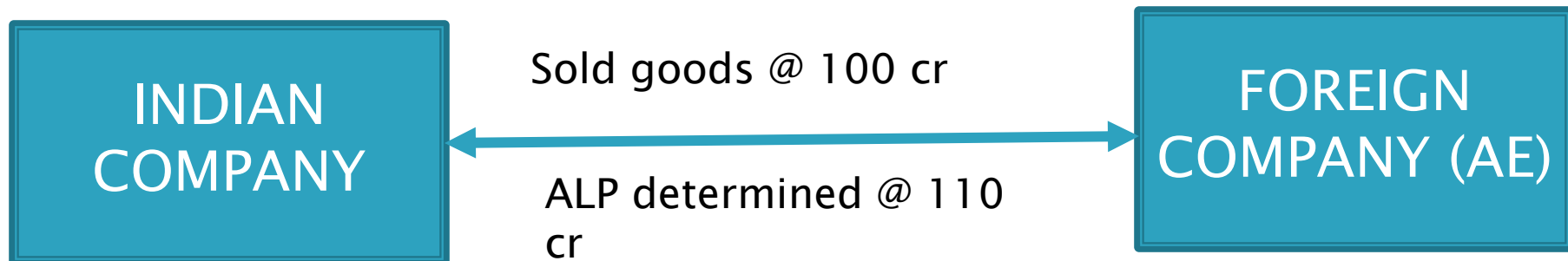
- (2) Where, as a result of primary adjustment to the transfer price,
- there is an increase in the total income or reduction in the loss,
 - as the case may be,
 - of the assessee,
 - the excess money which is available with its associated enterprise,
 - if not repatriated to India within the time as may be prescribed,
 - shall be deemed to be an advance made by the assessee to such associated enterprise and the interest on such advance,
 - shall be computed in such manner as may be prescribed.

(3) For the purposes of this section,—

- (i) "associated enterprise" shall have the meaning assigned to it in sub-section (1) and sub-section (2) of section 92A;
- (ii) "arm's length price" shall have the meaning assigned to it in clause (ii) of section 92F;
- (iii) "excess money" means the difference between the arm's length price determined in primary adjustment and the price at which the international transaction has actually been undertaken;

- (iv) "primary adjustment" to a transfer price,
- means the determination of transfer price in accordance with the arm's length principle
 - resulting in an increase in the total income or reduction in the loss,
 - as the case may be, of the assessee;
- (v) "secondary adjustment" means an adjustment in the books of account of the assessee and its associated enterprise
- to reflect that the actual allocation of profits between the assessee and its associated enterprise are consistent with the transfer price determined as a result of primary adjustment,
 - thereby removing the imbalance between cash account and actual profit of the assessee.]

92CE : Bird's Eye View



- 10 Crores is the primary adjustment
- 10 Crores will be added to income of Indian company under TP provisions
- 10 Crores to be repatriated to India within prescribed time
- If not 10 Crores shall be deemed to be Advance made by Indian Company to Foreign AE
- Interest in respect of such deemed advance shall be taxed in the hands of the Indian Entity : Secondary Adjustment

92CE: Situations where primary adjustment could result into Secondary adjustment.

92CE. (1) Where a primary adjustment to transfer price,—

- (i) has been made **suo motu** by the assessee in his return of income;
- (ii) made by the **Assessing Officer** has been accepted by the assessee;
- (iii) is determined by an **advance pricing agreement** entered into by the assessee under section 92CC;
- (iv) is made as per the **safe harbour rules** framed under section 92CB; or
- (v) is arising as a result of **resolution** of an assessment **by way of the mutual agreement procedure** under an agreement entered into under section 90 or section 90A for avoidance of double taxation, the assessee shall make a secondary adjustment:

92CE: No Secondary Adjustments in following cases.

Proviso to Sec 92CE(1):

- ▶ If primary adjustment does not exceed **1 Crore**
- ▶ Primary adjustment relates to AY 16-17 or earlier years

Time Limit to repatriate funds into India.

Rule 10CB: Repatriate within 90 days from :

Adjustment by / under	Time Limit: 90 Days from
Suo-moto by Assessee	Due date of return of income u/s 139(1)
Assessing officer	Date of order of the AO or appellate authority
Advance Pricing Arrangement	Due date for filing return u/s 139(1)
Safe Harbour Rules	Due date for filing return u/s 139(1)
Mutual Agreement Procedure under DTAA	Due date for filing return u/s 139(1)

Rate of Interest

Rule 10CB(2):

- ▶ If transaction is denominated in **INR** : marginal cost of fund lending rate of SBI as on 1st of April of the relevant previous year plus 325 basis points
- ▶ If transaction is denominated in **Foreign Currency**: at six month London Interbank Offered Rate as on 30th September of the relevant previous year plus 300 basis points

CLAUSE – 30B

Inserted vide Notification No. 33/2018 dated 20/07/2018.

30B.(a) Whether the assessee has incurred expenditure during the previous year by way of interest or of similar nature exceeding one crore rupees as referred to in sub-section (1) of section 94B? (Yes/No.)

(b) If yes, please furnish the following details:—

- i. Amount (in Rs.) of expenditure by way of interest or of similar nature incurred:
- ii. Earnings before interest, tax, depreciation and amortization (EBITDA) during the previous year (in Rs.):
- iii. Amount (in Rs.) of expenditure by way interest or of similar nature as per (i) above which exceeds 30% of EBITDA as per (ii) above :
- iv. Details of interest expenditure brought forward as per sub-section (4) of section 94B:

A.Y.	Amount (in Rs.)

- v. Details of interest expenditure carried forward as per sub-section (4) of section 94B:

A.Y.	Amount (in Rs.)

CLAUSE – 30B

Format in e-utility

B(a) Whether the assessee has incurred expenditure during the previous year by way of interest or of similar nature exceeding one crore rupees as referred to in sub-section (1) of section 94B

(b) If yes, please furnish the following details

Select



S.No.		Amount (in Rs.) of expenditure by way of interest or of similar nature incurred	Earnings before interest, tax, depreciation and amortization (EBITDA) during the previous year (in Rs.)	Amount (in Rs.) of expenditure by way of interest or of similar nature as per (i) above which exceeds 30% of EBITDA as per (ii) above.	Details of interest expenditure brought forward as per sub-section (4) of section 94B.		Details of interest expenditure carried forward as per sub-section (4) of section 94B:	
					Assessment Year	Amount (in Rs.)	Assessment Year	Amount (in Rs.)
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<p>Select</p>	<input type="text"/>	<p>Select</p>	<input type="text"/>

Limitation on interest deduction in certain cases [section 94B] [Clause 30B]

If the assessee has incurred expenditure by way of interest or of similar nature exceeding INR one crore under section 94B(1), only then the below details need to be provided:

Amount of expenditure by way of interest or of similar nature incurred in INR

Amount of earnings before interest, tax, depreciation and amortization (EBITDA) in INR

Amount of expenditure by way of interest or of similar nature in INR which exceeds 30% of EBITDA

Details of interest expenditure **brought forward** under section 94B(4):
A.Y. and Amount in INR

Details of interest expenditure **carried forward** under section 94B(4):
A.Y. and Amount in INR

[Limitation on interest deduction in certain cases.

94B. (1) Notwithstanding anything contained in this Act,

- where an Indian company, or a permanent establishment of a foreign company in India,
- being the borrower,
- incurs any expenditure by way of interest or of similar nature exceeding one crore rupees
- which is deductible in computing income chargeable under the head "Profits and gains of business or profession" in respect of any debt issued by a non-resident,
- being an associated enterprise of such borrower,
- the interest shall not be deductible in computation of income under the said head to the extent that it arises from excess interest, as specified in sub-section (2) :

Provided that where the debt is issued by a lender which is not associated but an associated enterprise either provides an implicit or explicit guarantee to such lender or deposits a corresponding and matching amount of funds with the lender, such debt shall be deemed to have been issued by an associated enterprise.

- (2) For the purposes of sub-section (1), the excess interest shall mean an amount of total interest paid or payable in excess of thirty per cent of earnings before interest, taxes, depreciation and amortisation of the borrower in the previous year or interest paid or payable to associated enterprises for that previous year, whichever is less.
- (3) Nothing contained in sub-section (1) shall apply to an Indian company or a permanent establishment of a foreign company which is engaged in the business of banking or insurance.

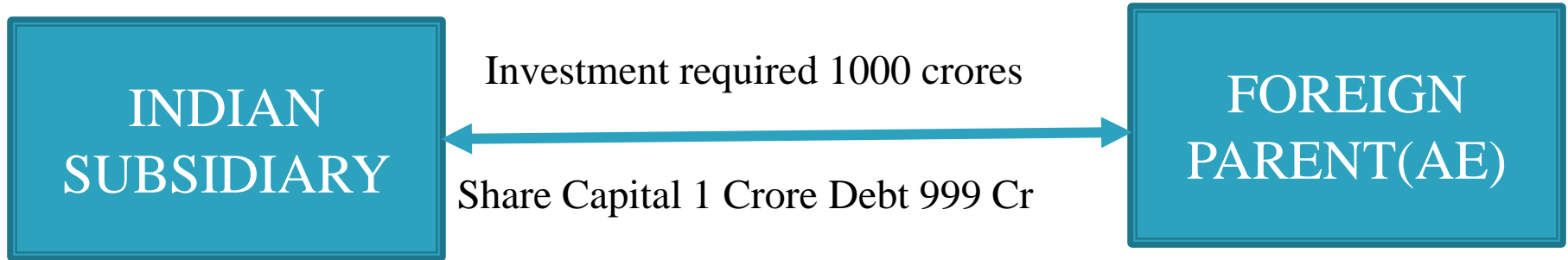
- (4) Where for any assessment year, the interest expenditure is not wholly deducted against income under the head "Profits and gains of business or profession",
- so much of the interest expenditure as has not been so deducted,
 - shall be carried forward to the following assessment year or assessment years, and
 - it shall be allowed as a deduction against the profits and gains, if any, of any business or profession carried on by it and
 - assessable for that assessment year to the extent of maximum allowable interest expenditure in accordance with sub-section (2):

Provided that no interest expenditure shall be carried forward under this sub-section for more than eight assessment years immediately succeeding the assessment year for which the excess interest expenditure was first computed.

(5) For the purposes of this section, the expressions—

- (i) "associated enterprise" shall have the meaning assigned to it in sub-section (1) and sub-section (2) of section 92A;
- (ii) "debt" means any loan, financial instrument, finance lease, financial derivative, or any arrangement that gives rise to interest, discounts or other finance charges that are deductible in the computation of income chargeable under the head "Profits and gains of business or profession";
- (iii) "permanent establishment" includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.]

Sec 94B:



- Indian Company claims interest cost in respect of debt of 999 Crore
- Debt is routed through jurisdictions where interest is not taxable or taxable at low rates
- 94B now restricts deduction in respect of such interests to 30% of EBITDA
- 94B is not applicable to small cases – i.e. where interest payout is not more than 1 Crore

Sec 94B: Illustration

YEAR 1:

- ▶ EBITDA is Rs. 100 Crores
- ▶ Interest paid to AEs and deemed AEs – 35 Crores
- ▶ In computing taxable profits of such entity in respect of interest paid to AE (even if under ALP) deduction shall be restricted to 30 Crores.
- ▶ The difference 5 Crores can be carried forward for 8 AYs and can be claimed as deduction, subject to overall limit of 30%.

contd...

Sec 94B: Illustration

YEAR 2:

- ▶ EBITDA is Rs. 150 Crores
- ▶ Interest paid to AEs in current year – 43 Crores
- ▶ b/f interest of previous year – 5 Crores
- ▶ Total interest sought to be claimed as deduction – $43 + 5 = 48$ Crores
- ▶ 30% of 150 Crores – 45 Crores
- ▶ Interest deduction to be restricted at 45 Crores
- ▶ Difference 3 Crores to be carried forward

CLAUSE – 30C

Inserted vide Notification No. 33/2018 dated 20/07/2018.


30C. (a) Whether the assessee has entered into an impermissible avoidance arrangement, as referred to in section 96, during the previous year? (Yes/No.)


(b) If yes, please specify:—

- i. Nature of impermissible avoidance arrangement:
- ii. Amount (in Rs.) of tax benefit in the previous year arising, in aggregate, to all the parties to the arrangement:

CLAUSE – 30C

Format in e-utility

C(a)	Whether the assessee has entered into an impermissible avoidance arrangement, as referred to in section 96, during the previous year. (This Clause is kept in abeyance till 31st March, 2020)	Select 
(b) If yes, please furnish the following details		

S.No.		Nature of the impermissible avoidance arrangement	Amount (in Rs.) of tax benefit in the previous year arising, in aggregate, to all the parties to the arrangement
1	<input type="checkbox"/>	Select 	<input type="text"/>
<div> Add  Delete</div>			

***This clause is kept in abeyance till 31st March 2020 vide circular No. 9/2019 dated 14/05/2019.**

Deferred further till 31st March, 2022 (vide Circular No. 05/2021 Dated 25th March, 2021)

CLAUSE – 31

- 31 (a) Particulars of each loan or deposit in an amount exceeding the limit specified in section 269SS taken or accepted during the previous year:
- (i) name, address and Permanent Account Number (if available with the assessee) of the lender or depositor;
 - (ii) amount of loan or deposit taken or accepted;
 - (iii) whether the loan or deposit was squared up during the previous year;
 - (iv) maximum amount outstanding in the account at any time during the previous year;
 - (v) whether the loan or deposit was taken or accepted by cheque or bank draft or use of electronic clearing system through a bank account;
 - (vi) in case the loan or deposit was taken or accepted by cheque or bank draft, whether the same was taken or accepted by an account payee cheque or an account payee bank draft.

(b) Particulars of each specified sum in an amount exceeding the limit specified in section 269SS taken or accepted during the previous year:

- (i) name, address and Permanent Account Number (if available with the assessee) of the person from whom specified sum is received;
- (ii) amount of specified sum taken or accepted;
- (iii) whether the specified sum was taken or accepted by cheque or bank draft or use of electronic clearing system through a bank account;
- (iv) in case the specified sum was taken or accepted by cheque or bank draft, whether the same was taken or accepted by an account payee cheque or an account payee bank draft.

(Particulars at (a) and (b) need not be given in the case of a Government company, a banking company or a corporation established by the Central, State or Provincial Act.)

CLAUSE – 31

Format in e-utility



31 (a) Particulars of each loan or deposit in an amount exceeding the limit specified in section 269SS taken or accepted during the previous year :-



S.No.		Name of the lender or depositor	Address of the lender or depositor	Permanent Account Number (if available with the assessee) of the lender or depositor	Amount of loan or deposit taken or accepted	Whether the loan/deposit was squared up during the Pervious Year	Maximum amount outstanding in the account at any time during the Previous Year	Whether the loan or deposit was taken or accepted by cheque or bank draft or use of electronic clearing system through a bank account.	in case the loan or deposit was taken or accepted by cheque or bank draft, whether the same was taken or accepted by an account payee cheque or an account payee bank draft.
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<div>Select</div>	<input type="text"/>	<div>Select</div>	<div>Select</div>
<div><div>+ Add</div><div>- Delete</div></div>									

CLAUSE – 31

Format in e-utility

(b) Particulars of each specified sum in an amount exceeding the limit specified in section 269SS taken or accepted during the previous year:-

S.No.		Name of the person from whom specified sum is received	Address of the person from whom specified sum is received	Permanent Account Number (if available with the assessee) of the person from whom specified sum is received	Amount of specified sum taken or accepted	Whether the specified sum was taken or accepted by cheque or bank draft or use of electronic clearing system through a bank account	In case the specified sum was taken or accepted by cheque or bank draft, whether the same was taken or accepted by an account payee cheque or an account payee bank draft.
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Select 	Select 

 Add  Delete

(Particulars at (a) and (b) need not be given in the case of a Government company, a banking company or a corporation established by a Central, State or Provincial Act.)

The auditor needs to take care of the following for this sub-clause:

For the purposes of section 269SS "loan or deposit" means loan or deposit of money. Following would not be covered u/s 269SS:

- As held in certain judicial pronouncements journal / transfer entries are not covered u/s 269SS. - **CIT v. Noida Toll Bridge Co. Ltd. 262 ITR 260 (Del); CIT Vs Worldwide Township Projects Ltd. (Delhi High Court) ITA No. 232/2014.**
- Sale proceeds collected by the selling agent
- Advance received against agreement of sale of goods
- Security deposits against contracts, etc. will be covered by the definition of 'deposit'. However, the amount retained by the contractee against performance of contract will not be covered as loans/deposits for reporting as amount is not received

- Details of each loan or deposit taken or accepted exceeding the limit specified in section 269SS (i.e, details of each loan or deposit taken or accepted for Rs. Rs.20000/- or more in the previous year) is to be given
- He should scrutinise all the loans and deposits which the assessee had taken or accepted during the year.
- Even loans / deposits squared up during the year have to be reported.
- Maximum amount of loan outstanding in the account at any time during the year is also to be reported.
- If the total of all loans/deposits from a person exceed Rs.20,000/- but each individual item is less than Rs.20,000/-, the information will still be required to be given in respect of all such entries.

If the loan or deposit is accepted by cheque or bank draft whether these are Account payee or not is to be reported. There could be practical difficulties in verifying that the loan or deposit taken or accepted by account payee cheque or an account payee bank draft.

In such cases, the tax auditor should verify the transactions with reference to such evidence which may be available and report in Form 3CA/3CB that:

- It is not possible for me/us to verify whether loans or deposits have been taken or accepted otherwise than by an account payee cheque or account payee bank draft, as the necessary evidence is not in the possession of the assessee.

CLAUSE – 31(ba)

Inserted vide Notification No. 33/2018 dated 20/07/2018.

Particulars of each receipt in an amount exceeding the limit specified in section 269ST, in aggregate from a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion from a person, during the previous year, where such receipt is otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account :—

- i. Name, address and Permanent Account Number (if available with the assessee) of the payer;
- ii. Nature of transaction;
- iii. Amount of receipt (in Rs.);
- iv. Date of receipt;

CLAUSE-31(ba)

Format in e-utility

b(a) Particulars of each receipt in an amount exceeding the limit specified in section 269ST, in aggregate from a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion from a person, during the previous year, where such receipt is otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account

S.No.		Name of the Payer	Address of the Payer	Permanent Account Number (if available with the assessee) of the Payer	Nature of transaction	Amount of receipt	Date Of receipt
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<div><input type="button" value="+ Add"/> <input type="button" value="X Delete"/></div>							

Cash receipts more than INR 2,00,000 under Section 269ST is to be reported.

[Mode of undertaking transactions.

269ST. No person shall receive an amount of two lakh rupees or more -

- (a) in aggregate from a person in a day; or
- (b) in respect of a single transaction; or
- (c) in respect of transactions relating to one event or occasion from a person, otherwise than by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account:

Provided that the provisions of this section shall not apply to—

(i) any receipt by -

(a) Government;

(b) any banking company, post office savings bank or co-operative bank;

(ii) transactions of the nature referred to in section 269SS;

(iii) such other persons or class of persons or receipts, which the Central Government may, by notification in the Official Gazette, specify.

Explanation.—For the purposes of this section,—

(a) "banking company" shall have the same meaning as assigned to it in clause (i) of the Explanation to section 269SS;

(b) "co-operative bank" shall have the same meaning as assigned to it in clause (ii) of the Explanation to section 269SS.]

This sub-clause has been inserted to Form 3CD w.e.f. 20th August 2018 and requires reporting for transactions u/s 269ST. The reporting is required to be made if the amount received is Rs. 2 Lakhs or more for any of the following:

- in aggregate from a person in a day; or
- in respect of a single transaction; or
- in respect of transactions relating to one event or occasion from a person.

The auditor needs to verify the following:

- Verify the cash book whether cash is received of Rs. 2 lakhs or more in a single day from a person.
- Verify the ledgers and other documents to determine any transaction which is of Rs. 2 Lakhs or more. Against those transactions, verify whether the assessee received any amount other-wise than by cheque, draft or ECS of Rs. 2 Lakhs or more. In this case both the transaction as well as receipts is to be verified (which could be not in a single day but in multiple days too)

➤ Verify the events or occasions done/entered/ participated/ organised by the assessee. For that event/occasion did the assessee receive Rs. 2 Lakhs or more from a person other-wise than by cheque, draft or ECS? The event/occasion could last for more than a day, the limits per person are to be analysed for the whole event and all invoices in aggregate for the event has to be seen collectively.

➤ Only the exceptions as notified by CBDT are not to be reported.

➤ Obtain a management representation from the assessee that:

He/ it did not receive any amount of Rs. 2 Lakhs or more other-wise than by cheque, draft or ECS for any of the following:

- in aggregate from a person in a day; or
- in respect of a single transaction; or
- in respect of transactions relating to one event or occasion from a person.

TRANSACTIONS WHERE SECTION 269ST MAY BECOME APPLICABLE:

- (a) sale proceeds of goods
- (b) proceeds of Services
- (c) sale proceeds of movable properties
- (d) fees, remuneration, salary, dalali, brokerage, contract payments etc.
- (e) Advance against sale of goods/provision of service [except advance against sale of immovable property, being covered by S.269SS]

- (f) recovery of loan given and interest thereon (**not covered presently in Sec. 269SS**)
- (g) donation receipts by trusts etc.
- (h) Advance taken by partner of firm, employees from employer, agents from principal etc. for personal purpose or for purpose of business itself
- (i) Withdrawal of capital / profit by a partner of firm in firm.
- (j) Introduction of capital by partner in firm.
- (k) Issue of Share Capital
- (l) Gifts received from relatives/non relatives in cash.
- (m) amount received by hospitals, educational institutions etc.

- (n) Transactions of loan or deposit between agriculturists may be exempt u/s 269SS but other transactions between agriculturists are not exempt u/s 269ST.
- (o) Receipt of money from government shall also attract S.269ST because receipt of amount by government only is exempt. Hence vendors registered with government shall have to either keep cash receipt below Rs. 2,00,000 or accept the amount through banking channels.
- (p) Further only receipt by post office saving bank has been excluded from operation of section 269ST. Deposit in Post office saving bank is excluded u/s 269SS. Other receipts and deposits by post office shall be hit by S.269SS and S.269ST.

- (q) Any Person receiving amount of Rs 2 Lakhs or above in cash as **reimbursement** may also be covered under section 269ST. Thus he cannot accept cash of Rs 2 Lakhs or above in cash.
- (r) Sale of Depreciable Capital Assets. (Although amount received against sale of Depreciable capital assets is being reduced from block of assets and only reduced depreciation is allowable and still sale of this depreciable capital Assets cannot happen in cash if the amount of sale proceeds is Rs.2 Lakhs or more).
- (s) Statement by a third party that he made payment to you in cash.
- (t) Forced recoveries by lenders from borrowers.
- (u) Dowry
- (v) Bribe

Circular No. 22 of 2017 F.No.370142/10/2017-TPL

Dated 03 rd July, 2017

2. Subsequently, representations have been received from non-banking financial companies (NBFCs) and housing finance companies (HFCs) as to whether the provisions of section 269ST of the Act shall apply to one instalment of loan repayment or the whole amount of such repayment.
3. In this context, it is clarified that in respect of receipt in the nature of repayment of loan by NBFCs or HFCs, the receipt of one instalment of loan repayment in respect of a loan shall constitute a 'single transaction' as specified in clause (b) of section 269ST of the Act and all the instalments paid for a loan shall not be aggregated for the purposes of determining applicability of the provisions section 269ST.

(Salil Mishra)

Director (Tax Policy & Legislation)

New Delhi, Dated 3 November, 2017

Clarification on Cash sale of agricultural produce by cultivators/ agriculturist

Representations have been received from the stakeholders regarding applicability of income-tax provision to cash sale of agricultural produce by cultivators/agriculturists to traders.

2. In this context, it is stated that the provisions of section 40A (3) of the Income-tax Act, 1961 (`the Act') provides for the disallowances of expenditure exceeding Rs. 10000 made otherwise than by an account payee cheque/draft or use of electronic clearing system through a bank account.

However, rule 6DD of the Income-tax Rules, 1962 (`IT Rules') carves out certain exceptions from application of the provisions of section 40A (3) in some specific cases and circumstances, which inter alia include payments made for purchase of agricultural produce to the cultivators of such produce.

Therefore, no disallowance under section 40A (3) of the Act can be made if the trader makes cash purchases of agricultural produce from the cultivator.

3. Further, section 269ST, subject to certain exceptions, prohibits receipt of Rs. 2 lakh or more otherwise than by an account payee cheque/draft or by use of electronic clearing system through a bank account from a person in a day or in respect of a single transaction or in respect of transactions relating to an event or occasion from a person. **Therefore, any cash sale of an amount of Rs. 2 lakh or more by a cultivator of agricultural produce is prohibited under section 269ST of the Act.**

4. Further also the provisions relating to quoting of PAN or furnishing of Form No.60 under rule 114B of the IT Rules do not apply to the sale transaction of Rs. 2 Lakh or less.

5. **In view of the above, it is clarified that cash sale of the agricultural produce by its cultivator to the trader for an amount less than Rs 2 Lakh will not:—**

a) result in any disallowance of expenditure under section 40A (3) of the Act in the case of trader.

b) attract prohibition under section 269ST of the Act in the case of the cultivator; and

c) require the cultivator to quote his PAN/ or furnish Form No. 60.

Example

Suppose Mr. A is paying his Rs. 10,00,000/- loan from a Non-Banking Finance Company in cash and he has paid Rs. 25,000/- of instalments each month.

Then in a year his payment will be Rs. 3.00 Lakhs and which violates provisions of Section 269ST in the hand of NBFC(s).

Now in this case single transaction should not be more than Rs. 2.00 Lakhs and not all instalments in a year should be aggregated. [Circular No.22/2017 dated 3 July, 2017].

[Notification No. 57 /2017, F.No.370142/10/2017-TPL]

Dated the 03 rd July, 2017

The Central Government hereby specifies that the provision of section 269ST shall not apply to the following, namely:-

- (a) receipt by a business correspondent on behalf of a banking company or co-operative bank, in accordance with the guidelines issued by the Reserve Bank of India;
- (b) receipt by a white label automated teller machine operator from retail outlet sources on behalf of a banking company or co-operative bank, in accordance with the authorisation issued by the Reserve Bank of India under the Payment and Settlement Systems Act, 2007 (51 of 2007);

- (c) receipt from an agent by an issuer of pre-paid payment instruments, in accordance with the authorisation issued by the Reserve Bank of India under the Payment and Settlement Systems Act, 2007 (51 of 2007);
- (d) receipt by a company or institution issuing credit cards against bills raised in respect of one or more credit cards;
- (e) receipt which is not includible in the total income under clause (17A) of section 10 of the Income-tax Act, 1961.

2. The notification shall be deemed to have come into force with effect from the 1st day of April, 2017.

(Salil Mishra)
Director (Tax Policy & Legislation)

CLAUSE – 31 (bb)

(bb) Particulars of each receipt in an amount exceeding the limit specified in section 269ST, in aggregate from a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasions from a person, received by a cheque or bank draft, not being an account payee cheque or an account payee bank draft, during the previous year;—

- i. Name, address and Permanent Account Number (if available with the assessee) of the payer;
- ii. Amount of receipt (in Rs.);

CLAUSE – 31 (bb)

Format in e-utility

b(b) Particulars of each receipt in an amount exceeding the limit specified in section 269ST, in aggregate from a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion from a person, received by a cheque or bank draft, not being an account payee cheque or an account payee bank draft, during the previous year :-

S.No.		Name of the Payer	Address of the Payer	Permanent Account Number (if available with the assessee) of the Payer	Amount of receipt
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<div><input type="button" value="+ Add"/> <input type="button" value="X Delete"/></div>					

This clause is an extension of S. No. 31(ba) and requires reporting only in case when the above mentioned receipt is received by cheque or bank draft and the cheque or bank draft is not an account payee cheque or accounting payee bank draft.

There could be practical difficulties in verifying that the amount in question has been accepted by account payee cheque or an account payee bank draft.

In such cases, the tax auditor should verify the transactions with reference to such evidence which may be available and report in Form 3CA/3CB that:

- It is not possible for me/us to verify whether the assessee received an amount exceeding the limit specified in section 269ST in aggregate from a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasions from a person, by an account payee cheque or an account payee bank draft, during the previous year as the necessary evidence is not in the possession of the assessee.

CLAUSE – 31(bc)

(bc) Particulars of each payment made in an amount exceeding the limit specified in section 269ST, in aggregate to a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasions to a person, otherwise than by a cheque or bank draft, or use of electronic clearing system through a bank account, during the previous year:—

- i. Name, address and Permanent Account Number (if available with the assessee) of the payee;
- ii. Nature of transaction;
- iii. Amount of payment (in Rs.);
- iv. Date of payment;

CLAUSE – 31(bc)

Format in e-utility

b(c) Particulars of each payment made in an amount exceeding the limit specified in section 269ST, in aggregate to a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion to a person, otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year

S.No.		Name of the Payee	Address of the Payee	Permanent Account Number (if available with the assessee) of the Payee	Nature of transaction	Amount of Payment	Date Of Payment
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<div><input type="button" value="+ Add"/> <input type="button" value="X Delete"/></div>							

No. 31(ba) was for receipt of money in contravention of s. 269ST. This clause is for reporting of PAYMENT of money in contravention of s. 269ST. There is no penalty on the assessee u/s 271DA for payment, as the same is only on the receiver, yet this information is sought by the department to take appropriate action on the receiver.

The auditor needs to verify the following:

- Verify the cash book whether cash is paid of Rs. 2 lakhs or more in a single day to a person.
- Verify the ledgers and other documents to determine any transaction which is of Rs. 2 Lakhs or more. Against those transactions, verify whether the assessee paid any amount other-wise than by cheque, draft or ECS of Rs. 2 Lakhs or more. In this case both the transaction as well as payments are to be verified (which could be not in a single day but in multiple days too)

Verify the events or occasions done/entered/participated/organised by the assessee. For that event/occasion did the assessee pay Rs. 2 Lakhs or more to a person other-wise than by cheque, draft or ECS? The event/occasion could last for more than a day, the limits per person are to be analysed for the whole event and all invoices in aggregate for the event has to be seen collectively

Only the exceptions as notified by CBDT are not to be reported.

Obtain a management representation from the assessee that:

He/ it did not pay any amount of Rs. 2 Lakhs or more other-wise than by cheque, draft or ECS for any of the following:

- in aggregate to a person in a day; or
- in respect of a single transaction; or
- in respect of transactions relating to one event or occasion to a person

CLAUSE – 31(bd)

(bd) Particulars of each payment made in an amount exceeding the limit specified in section 269ST, in aggregate to a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasions to a person, made by a cheque or bank draft, not being an account payee cheque or an account payee bank draft, during the previous year:—

- i. Name, address and Permanent Account Number (if available with the assessee) of the payee;
- ii. Amount of payment (in Rs.);

(Particulars at (ba), (bb), (bc) and (bd) need not be given in the case of receipt by or payment to a Government company, a banking Company, a post office savings bank, a cooperative bank or in the case of transactions referred to in section 269SS or in the case of persons referred to in Notification No. S.O. 2065(E) dated 3rd July, 2017)

CLAUSE – 31(bd)

Format in e-utility

b(d) Particulars of each payment in an amount exceeding the limit specified in section 269ST, in aggregate to a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion to a person, made by a cheque or bank draft, not being an account payee cheque or an account payee bank draft, during the previous year

S.No.		Name of the Payee	Address of the Payee	Permanent Account Number (if available with the assessee) of the Payee	Amount of Payment
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

(Particulars at (ba), (bb), (bc) and (bd) need not be given in the case of receipt by or payment to a Government company, a banking Company, a post office savings bank, a cooperative bank or in the case of transactions referred to in section 269SS or in the case of persons referred to in Notification No. S.O. 2065(E) dated 3rd July, 2017)"

This sub-clause is an extension of S. No. 31(bc) and requires to report only in case when the above mentioned payment is made by cheque or bank draft and the cheque or bank draft was not an account payee cheque or account payee bank draft.

There could be practical difficulties in verifying that the amount in question has been paid by account payee cheque or an account payee bank draft. In such cases, the tax auditor should verify the transactions with reference to such evidence which may be available and report in Form 3CA/3CB that:

➤ It is not possible for me/us to verify whether the assessee paid an amount exceeding the limit specified in section 269ST in aggregate to a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasions to a person, by an account payee cheque or an account payee bank draft, during the previous year as the necessary evidence is not in the possession of the assessee.

CLAUSE – 31(c)

(c) Particulars of each repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T made during the previous year:—

- i. name, address and Permanent Account Number (if available with the assessee) of the payee;
- ii. amount of the repayment;
- iii. maximum amount outstanding in the account at any time during the previous year;
- iv. whether the repayment was made by cheque or bank draft or use of electronic clearing system through a bank account;
- v. in case the repayment was made by cheque or bank draft, whether the same was repaid by an account payee cheque or an account payee bank draft.

CLAUSE – 31(c)

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(c) Particulars of each repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T made during the previous year:—

S.No.		Name of the payee	Address of the payee	Permanent Account Number (if available with the assessee) of the payee	Amount of the repayment	Maximum amount outstanding in the account at any time during the previous year	Whether the repayment was made by cheque or bank draft or use of electronic clearing system through a bank account.	In case the repayment was made by cheque or bank draft, whether the same was repaid by an account payee cheque or an account payee bank draft.
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Select <input checked="" type="checkbox"/>	Select <input type="checkbox"/>
<div><input type="button" value="+ Add"/> <input type="button" value="X Delete"/></div>								

Particulars of each repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T made during the previous year.

This sub-clause has been amended to rectify an inadvertent error w.e.f. 20th August 2018. This sub-clause requires reporting of repayment of loan or deposit or any specified advance (for immovable property) of Rs. 20000/- or more.

Details to be reported under this sub-clause include:

- iv. whether the repayment was made by cheque or bank draft or use of electronic clearing system through a bank account
- v. in case the repayment was made by cheque or bank draft, whether the same was repaid by an account payee cheque or an account payee bank draft.

The auditor needs to take care of the following for this sub-clause:

- For the purposes of section 269T "loan or deposit" means any loan or deposit of money which is repayable after notice or repayable after a period and, in the case of a person other than a company, includes loan or deposit of any nature.
- In the case of company assessee loan or deposit repayable on demand will not be considered for the purpose of this section as loan or deposit.
- In the case of non-company assessee loan or deposit is defined to mean loan or deposit of any nature. This distinction will have to be kept in mind while giving information under this sub-clause.

- Loan or deposits discharged by means of transfer entries in the books of account constitute repayment of loan or deposits otherwise than by account payee cheques or account payee bank drafts. Hence, such entries have to be reported under this clause.
- Details of each loan or deposit or any specified advance repaid exceeding the limit specified in section 269T is to be given
- He should scrutinise all the loans, deposits and advance against immovable property which the assessee had paid during the year.
- Maximum amount outstanding in the account at any time during the year is also to be reported.

•If the loan or deposit or specified advance is paid by cheque or bank draft whether these are Account payee or not is to be reported. There could be practical difficulties in verifying that the loan or deposit or specified advance is paid by account payee cheque or an account payee bank draft. In such cases, the tax auditor should verify the transactions with reference to such evidence which may be available and report in Form 3CA/3CB that:

- It is not possible for me/us to verify whether loans or deposits or specified advance have been paid otherwise than by an account payee cheque or account payee bank draft, as the necessary evidence is not in the possession of the assessee

CLAUSE – 31(d)

(d) Particulars of repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T received otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year:—

- (i) name, address and Permanent Account Number (if available with the assessee) of the lender, or depositor or person from whom specified advance is received;
- (ii) repayment of loan or deposit or any specified advance received otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year.

CLAUSE – 31(d)

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(d) Particulars of repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T received otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year:—

S.No.		Name of the payer	Address of the payer	Permanent Account Number (if available with the assessee) of the payer	Amount of repayment of loan or deposit or any specified advance received otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<div><input type="button" value="+ Add"/> <input type="button" value="X Delete"/></div>					

Particulars of repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T received otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year.

S. No. 31(c) was for repayment of loan or deposit or any specified advance in contravention of s. 269T. This clause is for reporting of PAYMENT RECEIVED of LOAN / DEPOSIT / SPECIFIED ADVANCE in contravention of s. 269T. There is no penalty on the assessee u/s 271F for payment received, as the same is only on the payer, yet this information is sought by the department to take appropriate action on the payer.

If the loan / deposit / specified advance given is received back otherwise than by cheque or bank draft or ECS, the same is to be reported under this clause.

CLAUSE – 31(e)

(e) Particulars of repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T received by a cheque or bank draft which is not an account payee cheque or account payee bank draft during the previous year:—

- (i) name, address and Permanent Account Number (if available with the assessee) of the lender, or depositor or person from whom specified advance is received;
- (ii) repayment of loan or deposit or any specified advance received by a cheque or a bank draft which is not an account payee cheque or account payee bank draft during the previous year

(Particulars at (c), (d) and (e) need not be given in the case of a repayment of any loan or deposit or any specified advance taken or accepted from the Government, Government company, banking company or a corporation established by the Central, State or Provincial Act).

CLAUSE – 31(e)

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(e) Particulars of repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T received by a cheque or bank draft which is not an account payee cheque or account payee bank draft during the previous year: –

S.No.		Name of the payer	Address of the payer	Permanent Account Number (if available with the assessee) of the payer	Amount of repayment of loan or deposit or any specified advance received by a cheque or a bank draft which is not an account payee cheque or account payee bank draft during the previous year
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

(Particulars at (c), (d) and (e) need not be given in the case of a repayment of any loan or deposit or specified advance taken or accepted from Government, Government company, banking company or a corporation established by a Central, State or Provincial Act)

This sub-clause is an extension of S. No. 31(d) and requires reporting only in case when the above mentioned payment is received by cheque or bank draft and the cheque or bank draft was not an account payee cheque or accounting payee bank draft.

There could be practical difficulties in verifying that the amount in question has been received by account payee cheque or an account payee bank draft. In such cases, the tax auditor should verify the transactions with reference to such evidence which may be available and report in Form 3CA/3CB that:

It is not possible for me/us to verify whether the assessee received the repayment of loan or deposit or specified advance of an amount exceeding the limit specified in section 269T by an account payee cheque or an account payee bank draft, during the previous year as the necessary evidence is not in the possession of the assessee.

Clause 32(a)

Clause 32 (a) [as amended by Income-tax (8th Amendment) Rules, 2021]

(a) Details of brought forward loss or depreciation allowance, in the following manner, to the extent available

S. No	AY	Nature of loss/allowance	Amount as returned (If the assessed depreciation is less and no appeal pending, take assessed)	All losses/allowances not allowed under section 115BAA/115BAC/115BAD	Amount as adjusted by withdrawal of additional depreciation on account of opting for taxation us. 115BAC/115BAD (to be filled in for AY 2021-22 only)	Amount as assessed		Remark
						Amt	Order u/s & date (according to E-utility)	

- b) Whether a change in shareholding of the company has taken place in the previous year due to which the losses incurred prior to the previous year cannot be allowed to be carried forward in terms of section 79.
- c) Whether the assessee has incurred any speculation loss referred to in section 73 during the previous year, If yes, please furnish the details of the same.
- d) whether the assessee has incurred any loss referred to in section 73A in respect of any specified business during the previous year, if yes, please furnish details of the same.
- e) In case of a company, please state that whether the company is deemed to be carrying on a speculation business as referred in explanation to section 73, if yes, please furnish the details of speculation loss if any incurred during the previous year.

The auditor should consider the following:

- Brought forward losses may pertain to different heads of income such as house property income, profits and gains in business or profession, speculation business or capital gains, the provisions of which are contained in sections 32 (depreciation) and 70 to 79.
- In the remarks column information about the pending assessment or appellate proceedings or about delay in filing loss returns should be given.
- The auditor should study the assessment records i.e. income-tax returns filed, assessment orders, appellate orders and rectification/ revision orders for the earlier years and ascertain if the figures / details given in the above clause are correct
- The auditor should take care of s. 80 read with s. 139(3) while verifying the required details. Section 80 provides that no loss which has not been determined in pursuance of a return filed in accordance with section 139(3) (i.e. return filed beyond time prescribed u/s 139(1) – belated return) shall be carried forward and set off u/s section 72(1)[Business Losses] or section 73(2)[Speculation Business] or Section 73A(2)[Specified Business] or section 74 (1)[Capital Gains] or section 74(3)[CG beyond 8 years] or section 74A(3)[Horse Races].

- Also he should keep in mind the provisions of section 71B regarding Carry Forward and Set-off of Loss from House Property
- He should be also aware of section 78 regarding Carry Forward and Set Off of Losses in case of Change in Constitution of Firm or on Succession
- Any assessment, rectification, revision or appeal proceedings pending at the time of tax audit should be disclosed in the remarks column by way of information. If consequential orders for any revision/appellate order is yet to be passed, the same can be disclosed along with the impact thereof if Material
- Verify the case / demand status from e-portal of IT Department, if available.

- Obtain suitable management representation regarding the carry forward losses and depreciation details.
- Carry forward of losses are restricted in case of firms / LLP u/s 78 and closely held companies u/s 79. Details should be given under this clause, with remarks regarding restriction of carry forward further. In next year the same would not be brought forward loss.
- Auditor should take note that section 78/79 restrictions do not affect the set off of unabsorbed depreciation as it is governed by section 32(2).

CLAUSE – 32

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- (b) Whether a change in share holding of the company has taken place in the previous year due to which the losses incurred prior to the previous year cannot be allowed to be carried forward in terms of section 79.

Select ▼

- (c) Whether the assessee has incurred any speculation loss referred to in section 73 during the previous year.

Select ▼

If yes, please furnish the details of the same.

- (d) Whether the assessee has incurred any loss referred to in section 73A in respect of any specified business during the previous year

Select ▼

If yes, please furnish details of the same.

- (e) In case of a company, please state that whether the company is deemed to be carrying on a speculation business as referred in explanation to section 73.

Select ▼

If yes, please furnish the details of speculation loss if any incurred during the previous year.

S No. 32 (b) - Where change in shareholding of company has taken place in P.Y due to which losses incurred in preceding P.Ys cannot be carried forward as per Section 79

Section 79 provides that where a change in shareholding has taken place in a previous year in the case of a company, not being a company in which the public are substantially interested, no loss shall be carried forward and set off against the income of the previous year unless on the last day of the previous year the shares of the company carrying not less than 51% of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than 51% of the voting power on the last day of the year or years in which the loss was incurred.

The auditor should take care that:

- This provision applies to a closely held company i.e. a company, not being a company in which the public are substantially interested. It includes an unlisted public company too.
- The comparison of the shareholding is to be done with reference to the last day of the current previous year and the last day of every previous year in which the loss was incurred. The carry forward of the loss incurred in respect of different previous years is to be determined with respect to the individual previous years.

- The change would not affect carry forward of unabsorbed depreciation u/s 32(2)
- This provision shall not apply to a change in the voting power consequent upon:
 - the death of a shareholder, or
 - on account of transfer of shares by way of gifts to any relative of the shareholder making such gift.
 - any change in the shareholding of an Indian company which is subsidiary of a foreign company arising as a result of amalgamation or demerger of a foreign company subject to the condition that 51 % of the shareholders of the amalgamating or demerged foreign company continue to remain the shareholders of the amalgamated or the resulting foreign company.

S No. 32 (c) - Whether the assessee has incurred any speculation loss referred to in section 73 during the previous year?

- Section 73(1) provides that any loss in respect of speculation business shall not be set off except against profits or gains of another speculation business
- section 73(4) provides that no loss shall be carried forward under this section for more than 4 AYs immediately succeeding the assessment year for which the loss was first computed
- Speculative transaction has been defined u/s 43(5). It does not include derivatives (futures & options) and commodity derivatives.
- Loss from deemed speculation business as per Explanation to S. 73A is to be reported in S. No. 32(e).

S. No. 32 (d) - Whether the assessee has incurred any loss referred to in section 73 A in respect of any specified business during the previous year.

Section 73A provides that any loss, computed in respect of any specified business referred to in section 35AD and shall not be set off except against profits and gains, if any, of any other specified business.

S No. 32 (e) - In case of a company, please state that whether the company is deemed to be carrying on a speculation business as referred in explanation to section 73.

Auditor should understand the provisions of Explanation to S. 73A while verifying this clause.

➤ It states that where any part of the business of a company (other than a company whose gross total income consists mainly of income which is chargeable under the heads "Interest on securities", "Income from house property", "Capital gains" and "Income from other sources", or a company the principal business of which is the business of trading in shares or banking or the granting of loans and advances) consists in the purchase and sale of shares of other companies, such company shall, for the purposes of this section, be deemed to be carrying on a speculation business to the extent to which the business consists of the purchase and sale of such shares.

➤ The auditor should obtain information from the assessee and verify the same from the books of account, income tax returns of earlier years and other relevant documents

CLAUSE – 33

Section-wise details of deductions, if any, admissible under Chapter VIA or Chapter III (Section 10A, Section 10AA).	
Section under which deduction is claimed	Amounts admissible as per the provision of the Income Tax Act, 1961 and fulfils the conditions, if any, specified under the relevant provisions of Income Tax Act, 1961 or Income Tax Rules, 1962 or any other guidelines, circular, etc, issued in this behalf.

CLAUSE – 33

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33

Section-wise details of deductions, if any admissible under Chapter VIA or Chapter III (Section 10A, Section 10AA).

Select



S.No.		Section under which deduction is claimed	Amounts admissible as per the provision of the Income-tax Act, 1961 and fulfils the conditions, if any, specified under the relevant provisions of Income-tax Act, 1961 or Income-tax Rules,1962 or any other guidelines, circular, etc, issued in this behalf.
1	<input type="checkbox"/>	Select	
<div><div> Add</div><div> Delete</div></div>			

S No. 33: Section-wise details of deductions, if any, admissible under Chapter VIA or Chapter III (Section 10A, Section 10 AA)

- The admissibility of the aforesaid deductions/exemptions is dependent upon various conditions. It is, therefore, advised that while working out the amount of admissible deduction the tax auditor has to ascertain that those condition stand fulfilled or not.
- For ascertaining this, the auditor should obtain all necessary evidence which would enable him to express the opinion regarding the admissibility of deductions.

- In the case of a sole proprietor being an individual or HUF the auditor would be auditing the accounts of the business / profession and he may have other activities and other sources of income in respect of which tax audit is not mandatory. In such cases the particulars of deductions admissible under Chapter VIA has to be given with reference to the items appearing in the books of accounts of the business/profession which is subject to audit u/s 44AB

- There may be cases where there is difference between the amount claimed by the assessee and the amount computed by the auditor-

- a) In such cases it is quite possible that the client's claim is based on some judicial pronouncement on the subject. In such case the tax auditor should report the amount admissible with his comments in Form 3CA/ 3CB.

- b) If the claim of the assessee is well-founded and settled by judicial pronouncement the tax auditor may accept the claim but he has to record in his working papers that admissible amount has been reported on the basis of such judicial pronouncement. He may report the amount admissible with his comments in Form 3CA/ 3CB.

CLAUSE NO. 34(a)

(a) Whether the assessee is required to deduct or collect tax as per the provisions of Chapter XVII-B or Chapter XVII-BB, if yes please furnish:


Tax deduction and collection Account Number (TAN)	(1)
Section	(2)
Nature of payment	(3)
Total amount of payment or receipt of the nature specified in column (3)	(4)
Total amount on which tax was required to be deducted or collected out of (4)	(5)
Total amount on which tax was deducted or collected at specified rate out of (5)	(6)
Amount of tax deducted or collected out of (6)	(7)
Total amount on which tax was deducted or collected at less than specified rate out of	(8)
(7) [logically it should be (5)]	
Amount of tax deducted or collected on (8)	(9)
Amount of tax deducted or collected not deposited to the credit of the Central Government out of	(10)
(6) and (8) [logically it should be (7) and (9)]	

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CLAUSE – 34(a)

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- 34 (a) Whether the assessee is required to deduct or collect tax as per the provisions of Chapter XVII-B or Chapter XVII-BB, if yes please furnish:

Select 

S.No.	Tax deduction and collection Account Number (TAN)	Section	Nature of payment	Total amount of payment or receipt of the nature specified in column (3)	Total amount on which tax was required to be deducted or collected out of (4)	Total amount on which tax was deducted or collected at specified rate out of (5)	Amount of tax deducted or collected out of (6)	Total amount on which tax was deducted or collected at less than specified rate out of (7)	Amount of tax deducted or collected on (8)	Amount of tax deducted or collected not deposited to the credit of the Central Government out of (6) and (8)
1										
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CLAUSE – 34(b) & (c)

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(b) Whether the assessee is required to furnish the statement of tax deducted or tax collected.
If yes ,please furnish the details:

Select



S.No.	Tax deduction and collection Account Number (TAN)	Type of Form	Due date for furnishing	Date of furnishing, if furnished	Whether the statement of tax deducted or collected contains information about all details/transactions which are required to be reported	If not, please furnish list of details/transactions which are not reported.
1						
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(c) Whether the assessee is liable to pay interest under section 201(1A) or section 206C(7).
If yes, please furnish:

Select



S.No.	Tax deduction and collection Account Number (TAN)	Amount of interest under section 201(1A)/206C(7) is payable	Amount paid out of column (2) along with date of payment.	
			Amount	Date of payment
1				
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ILLUSTRATION ON TDS

	Particulars	Amount (Rs.)
A	Total Interest as per P & L a/c	10 Lakhs
B	Payments made on which TDS provisions are not applicable 1. Interest to Partners 1.20 Lakhs 2. Interest to Bank 70 Thousand 3. Interest Paid to Government (196) 30 Thousand 4. Interest to Others below threshold limit 50 Thousand 5. Total amount for which 15G/15H Received 1.50 Lakhs	4.20 Lakhs
C	Interest covered under Certificate of deduction at lower rate (2%)	50 Thousand
D	Interest covered under Certificate of deduction at Nil rate	25 Thousand
E	Interest to Non Residents covered u/s 195	1.25 Lakhs
F	Interest on which tax deducted at Normal rate i.e., 10%	60 Thousand
G	Interest on which tax deducted at Higher Rate - 15% (by mistake)	40 Thousand
H	Interest on which tax deducted at lower rate by mistake (5%)	30 Thousand
I	Interest on which tax deducted at lower rate, but remitted at specified rate	90 Thousand
J	Interest on which tax deducted, but not remitted	35 Thousand
K	Interest on which tax deductible, but not deducted	45 Thousand
L	Int. on which Tax Not Deducted but Payee complied all 4 conditions as in Proviso to S.201(1) - Thus deductor not deemed to be "Assessee in Default".	80 thousand
M	TDS remitted to Central Govt (As per challan)	23,500

TAN	1	BLRS78693Y
SECTION	2	194A
NATURE OF PAYMENT	3	INTEREST OTHER THAN INTEREST ON SECURITIES
TOTAL AMOUNT OF PAYMENT OR RECEIPT OF THE NATURE SPECIFIED IN COLUMN 3	4	8,75,000
TOTAL AMOUNT ON WHICH TAX WAS REQUIRED TO BE DEDUCTED OR COLLECTED OUT OF 4	5	4,55,000
TOTAL AMOUNT ON WHICH TAX WAS DEDUCTED OR COLLECTED AT SPECIFIED RATE OUT OF 5	6	3,80,000
AMOUNT OF TAX DEDUCTED OR COLLECTED OUT OF 6	7	25,500
TOTAL AMOUNT ON WHICH TAX WAS DEDUCTED OR COLLECTED AT LESS THAN SPECIFIED RATE OUT OF 7(should be actually read as col 5)	8	30,000
AMOUNT OF TAX DEDUCTED OR COLLECTED OUT OF 8	9	1500
TOTAL AMOUNT OF TAX DEDUCTED OR COLLECTED NOT DEPOSITED TO THE CREDIT OF CENTRAL GOVT. OUT OF 6 & 8(should be actually read as col 7& 9)	10	3500

WORKINGS

COLUMN 4: TOTAL AMOUNT OF PAYMENT OR RECEIPT OF THE NATURE SPECIFIED IN COLUMN 3

Interest as per P&L a/c	Rs 10.00 lakhs
(-)Interest on Non-Resident U/s 195	Rs. 1.25 Lakhs
Amount to be entered in Column 4	Rs. 8.75 Lakhs

WORKINGS

COLUMN 5: TOTAL AMOUNT ON WHICH TAX WAS REQUIRED TO BE DEDUCTED OR COLLECTED OUT OF 4

Amount as per Column 4		Rs 8.75 lakhs
(-) B payments made on which T D S provision are not applicable		
1. Interest to Partners		
2. Interest to Bank	Rs 1.20 Lakhs	
3. Interest Paid to Government (Sec 196)	Rs 70 Thousand	
4. Interest to Others below threshold limit	Rs 30 Thousand	
5. Total Interest for which 15G/15H Received	Rs 50 Thousand Rs 1.50 Lakhs	Rs. 4.20 Lakhs
Amount to be entered in Column 5		Rs. 4.55 Lakhs

WORKINGS

COLUMN 6: TOTAL AMOUNT ON WHICH TAX WAS DEDUCTED OR COLLECTED AT *SPECIFIED RATE* OUT OF 5

	Particulars	COLUMN 6 - Amount
C	Interest covered under Certificate of deduction at lower rate (2%)	50,000
D	Interest covered under Certificate of deduction at Nil rate	25,000
F	Interest on which tax deducted at Normal rate i.e., 10%	60,000
G	Interest on which tax deducted at Higher Rate - 15% (by mistake)	40 ,000
I	Interest on which tax deducted at lower rate, but remitted at specified rate	90,000
J	Interest on which tax deducted, but not remitted	35,000
L	Int. on which Tax Not Deducted but Payee complied all 4 conditions as in Proviso to S.201(1) - Thus deductor not deemed to be "Assessee in Default".	80,0000
		3,80, 000

WORKINGS

COLUMN 7: AMOUNT OF TAX DEDUCTED OR COLLECTED OUT OF 6

	Particulars	COLUMN 7 – TDS
C	Interest covered under Certificate of deduction at lower rate (2%)	1,000
D	Interest covered under Certificate of deduction at Nil rate	
F	Interest on which tax deducted at Normal rate i.e., 10%	6,000
G	Interest on which tax deducted at Higher Rate - 15% (by mistake)	6,000
I	Interest on which tax deducted at lower rate, but remitted at specified rate	9,000
J	Interest on which tax deducted, but not remitted	3,500
L	Int. on which Tax Not Deducted but Payee complied all 4 conditions as in Proviso to S.201(1) - Thus deductor not deemed to be “Assessee in Default”.	NIL
		25,500

WORKINGS

COLUMN 8: TOTAL AMOUNT ON WHICH TAX WAS DEDUCTED OR COLLECTED AT LESS THAN SPECIFIED RATE OUT OF 7(should be actually col 5)

COLUMN 9: AMOUNT OF TAX DEDUCTED OR COLLECTED OUT OF 8

COLUMN 8 – Amount		COLUMN 9 – TDS
H	Rs 30,000	Rs 1,500
TOTAL	Rs 30,000	Rs 1,500

WORKINGS

COLUMN 10: TOTAL AMOUNT OF TAX DEDUCTED OR COLLECTED NOT DEPOSITED TO THE CREDIT OF CENTRAL GOVT. OUT OF 6 & 8(should be actually read as col 7& 9)

Amount		COLUMN 10 - TDS
J	Rs 35,000	Rs 3,500

Reconciliation of Remittance of TDS

Reconciliation of Remittance of TDS	M
Amount of Tax deducted @ Specified rate	Rs 25,500
(+) Amount of Tax deducted @ lower than specified rate	Rs 1,500
(-) Amount of Tax deducted but not deposited with Central Govt.	Rs 3,500
Amount matching with TDS Challan	Rs 23,500

Disallowance under Sec 40(a)(ia)

Particulars	
J: Interest on which tax deducted, but not remitted	Rs 35,000
K: Interest on which tax deductible, but not deducted	Rs 45,000
Total	Rs 80,000

L: 4 Conditions to be complied as in proviso to S.201(1)

[Provided that any person, including the principal officer of a company, who fails to deduct the whole or any part of the tax in accordance with the provisions of this Chapter on the sum paid to a resident or on the sum credited to the account of a resident shall not be deemed to be an assessee in default in respect of such tax if such resident—

- (i) has furnished his return of income under section 139;**
- (ii) has taken into account such sum for computing income in such return of income; and**
- (iii) has paid the tax due on the income declared by him in such return of income,**
- (iv) and the person furnishes a certificate to this effect from an accountant in such form as may be prescribed:]**

FORM No. 26A

[See rule 31ACB]

Form for furnishing accountant certificate under the first proviso to sub-section (1) of section 201 of the Income-tax Act, 1961

I (name) _____ am the person responsible for paying (within the meaning of section 204) in the case of (name of the payer) _____ with PAN # (PAN of the payer) _____ and TAN (TAN of the payer) _____ located at (address of the payer) _____

I do hereby state that I, being the person responsible for paying had paid to/credited to the account of (name of the payee) _____ a sum of _____ rupees without deduction of whole or any part of the tax

A certificate from an accountant certifying that the payee has fulfilled all the conditions mentioned in the first proviso to sub-section (1) of section 201 of the Income-tax Act, 1961 is enclosed as Annex 'A' to this Form

I further state that the interest under sub-section (1A) of section 201 amounting to _____ rupees for non-deduction/short deduction of tax * has been paid by me the details of which are as under -

<i>BSR Code/**24G Receipt Number (first seven digits of BIN)</i>	<i>Challan Serial Number/**DDO Serial Number (last five digits of BIN)</i>	<i>Date of deposit through challan/**date of transfer voucher</i>

or

*has not yet been paid by me.

Place

Signature

Date

Designation

In case of Government deductors "PAN NOT REQD" should be mentioned

* Delete whichever is not applicable

** For payment made without the production of challan

ANNEXURE A

Certificate of accountant under first proviso to sub-section (1) of section 201 of the Income-tax Act, 1961 for certifying the furnishing of return of income, payment of tax etc. by the payee

I/We *hereby confirm that I/we* have examined the relevant accounts, documents and records of (name and address of the payee with PAN) for the period _____ and hereby certify the following:

(i) _____ (payer) has paid to or credited following sum to the account of _____ (payee) without deduction of whole or any part of the tax in accordance with the provisions of Chapter-XVII-B

<i>Nature of</i>	<i>Date of</i>	<i>Section under</i>	<i>Amount</i>	<i>Amount of</i>	<i>Details of amount</i>	
<i>payment</i>	<i>payment or credit</i>	<i>which tax was deductible</i>	<i>paid or credited</i>	<i>tax deductible</i>	<i>deducted, if any</i>	
					<i>Amount deducted</i>	<i>Date of deduction</i>

(ii) The payee, who is a resident, has furnished his return of income for the assessment year relevant to the payment referred to in (i) above. The details of return of income filed by the payee are as under -

<i>Date of filing of return</i>	<i>Mode of filing i.e. whether e-filed or paper return</i>	<i>Acknowledgement number of return filed</i>	<i>If paper return designation and address of the Assessing Officer</i>	<i>Amount of total taxable income as per return filed</i>	<i>Tax due on the income declared in the return</i>	<i>Details of tax paid</i>

(iii) The payee has taken into account the sum referred to in (i) for computing his taxable income in return of income filed by him the details of which are as under -

<i>Receipt on which Tax has not been deducted</i>	<i>Head of Income under which the receipt is accounted for</i>	<i>Gross receipt under the head of income under which the receipt is accounted for</i>	<i>Amount of taxable income under the head of income under which the receipt is accounted for</i>

(iv) It has been ensured that the information furnished is true and correct in all respects and no relevant information has been concealed or withheld

(v) Neither I, nor any of my partners, is a director, partner or an employee of the above mentioned entities or its associated concerns

I/we* fully understand that any statement made in this certificate, if proved incorrect or false, will render me/us* liable for any penal or other consequences as may be prescribed in law or is otherwise warranted

(Signature and Stamp/Seal of the Signatory)

†Accountant

Place

Name of the Signatory

Date

Full Address

Membership No.

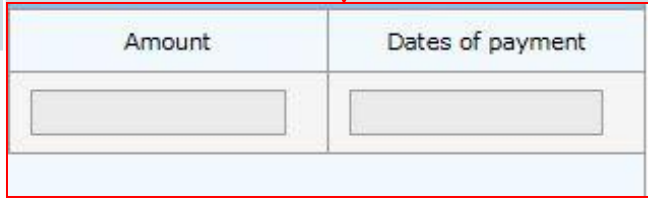
Notes:

1. *Delete whichever is not applicable
2. †This certificate is to be given by -

- (i) a chartered accountant within the meaning of the Chartered Accountants Act, 1949 (38 of 1949); or
- (ii) any person, who in relation to any State, is, by virtue of the provisions in sub-section (2) of section 226 of the Companies Act, 1956 (1 of 1956), entitled to be appointed to act as an auditor of companies registered in that State.

CLAUSE NO. 34(c)

Whether assessee liable to pay interest u/s 201(1A) 206C(7) ? If yes, the details thereof are to be furnished in the following format:

Tax deduction and collection Account Number (TAN)	Amount of interest u/s 201(1A)/ 206C(7) is payable	Amount paid out of column (2) along with date of payment.	
			

CLAUSE. 34(c)

Interest u/s. 201(1A) / 206C(7)

- Invariably, there is a difference in number of months as computed by Traces & by the assessee.
- Should auditor take cognizance of default notices?
 - The Guidance Note specifically mentions verification of the amounts with Part – G of Form 26AS. However he can recalculate if he is of the opinion that 26AS has the wrong figure.
 - This needs to be specifically mentioned in the observation/qualification section in Form 3CA or 3CB, as the case may be, as per the Guidance Note
- To take demand as per rectification application or as per CPC? As per Guidance Note - If different view from 26AS permissible, same shall apply here

- ▶ Interest U/s. 201(1A)(i) 1% for every month or part of a month on the amount of such tax from the date on which such tax was deductible to the date on which such tax is deducted; and U/s. 201(1A) (ii) 1.5% for every month or part of a month on the amount of such tax from the date on which such tax was deducted to the date on which such tax is actually paid.
- ▶ Interest U/s. 206C(7) –Where a seller does not collect the tax or after collecting the tax fails to pay he shall be liable to pay simple interest at the rate of 1% p.m. or part thereof on the amount of such tax from the date on which such tax was collectible to the date on which the tax was actually paid.

CLAUSE NO. 35

35. (a) In the case of a trading concern, give quantitative details of principal items of goods traded :

- i. Opening Stock;
- ii. purchases during the previous year;
- iii. sales during the previous year;
- iv. closing stock;
- v. shortage/excess, if any

(b) In the case of a manufacturing concern, give quantitative details of the principal items of raw materials, finished products and by-products :

A. Raw Materials :

- i. opening stock;
- ii. purchases during the previous year;
- iii. consumption during the previous year;
- iv. sales during the previous year;
- v. closing stock;
- vi. yield of finished products;
- vii. percentage of yield;
- viii. shortage/excess, if any.




B. Finished products/by-products :

- i. opening stock;
- ii. purchases during the previous year;
- iii. quantity manufactured during the previous year;
- iv. sales during the previous year;
- v. closing stock;
- vi. shortage/excess, if any.

CLAUSE - 35

Format in e-utility

35 (a) In the case of a trading concern, give quantitative details of principal items of goods traded;

S.No.		Item Name	Unit Name	Opening stock	Purchases during the pervious year	Sales during the pervious year	Closing stock	Shortage/excess, if any
1	<input type="checkbox"/>	<input type="text"/>	Select 	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
 Add  Delete			gms					
			kilograms					
			litre	milligrams				
			kilolitre	carat				
			metre	numbers (1000s)				
			kilometre	kwatt				
			numbers	mwatt				
			quintal	inch				
			ton	feet				
			pound	sqft				
				acre				
				cubicft				
				sqmetre				
				cubicmetre				
				residual				

23 units of measurements

S. No. 35 - Quantitative details of raw material in case of trader and manufacturer

The details are required only in case of assessee being traders or manufacturers. This clause is not applicable to service providers.

S. No. 35(a): Quantitative details in case of trading concern

A. In this case auditor is required to give quantitative details of principal items of goods traded, which are as follows:

1. Opening Stock
2. Purchases during the previous year
3. Sales during the previous year
4. Closing stock
5. Shortage/ Excess, if any.




- Auditor should obtain certificates from the assessee in respect of the principal items of goods traded, the balance of opening stock, purchases, sales and closing stock and the extent of shortage/excess/damage and the reasons for the same.
- Principal items here would mean the items which constitute more than 10% of the aggregate value of purchases or sales.

CLAUSE – 35


Format in e-utility

(b) In the case of manufacturing concern, give quantitative details of the principal items of raw materials, finished products and by-products.

(A) Raw materials:


S.No.		Item Name	Unit	Opening stock	Purchases during the pervious year	Consumption during the pervious year	Sales during the pervious year	Closing stock	Yield of finished products	Percentage of yield	Shortage/excess, if any
1	<input type="checkbox"/>	<input type="text"/>	Select 	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<div> Add  Delete</div>											

(B) Finished products :

S.No.		Item Name	Unit Name	Opening stock	Purchases during the pervious year	Quantity manufactured during the pervious year	Sales during the pervious year	Closing stock	Shortage/excess, if any
1	<input type="checkbox"/>	<input type="text"/>	Select 	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

 Add  Delete

(C) By-products

S.No.		Item Name	Unit Name	Opening stock	Purchases during the pervious year	Consumption during the pervious year	Sales during the pervious year	Closing stock	Shortage/excess, if any
1	<input type="checkbox"/>	<input type="text"/>	Select 	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

 Add  Delete

S. No. 35(b): Quantitative details in case of manufacturing concern

- In this case the auditor is required to verify the quantitative details of the principal items of raw materials, finished products and by-products, which are as follows:

A. Raw Materials

- 1) Opening stock
- 2) Purchases during the previous year
- 3) Consumption during the previous year
- 4) Sales during the previous year
- 5) Closing stock
- 6) Yield of finished products
- 7) Percentage of yield
- 8) Shortage/excess, if any.

B. Finished products/By-products

- 1) Opening stock
- 2) Purchases during the previous year
- 3) Quantity manufactured during the previous year
- 4) Sales during the previous year
- 5) Closing Stock
- 6) Shortage/excess, if any.

- Auditor should check the details of purchase, consumption and production of principal items of raw materials and finished goods including by-products.
- Information should be given only in respect of those items where it is practicable to do so, having regard to the records maintained by the Assesse.

- In case adequate records are not maintained / provided by the assessee, the auditor should report the same in Para 3 of Form 3CA or Para 5 of Form 3CB as the case may be. It could be as under:

- The assessee has not provided / maintained adequate records for our verification regarding the principal items of raw materials, finished products and by-products as required to be reported under clause 35(b) of Form 3CD.

- Principal items here would mean the items which constitute more than 10% of the aggregate value of purchases, consumption or sales.

- The auditor should obtain the following certified documents for principal items of raw materials, finished products and by-products:

- Certificate from the assessee certifying the quantity and value of the opening stock, purchases, sales and closing stock.

- Certificate to the extent of shortage/excess/damage and the reasons for the same.

CLAUSE - 36

**Omitted by the Income Tax (8th
Amendment Rules), 2021 w.e.f.
01-04-2021**

CLAUSE – 36A

(a) Whether the assessee has received any amount in the nature of dividend as referred to in sub-clause(e) of clause (22) of section 2? (Yes/No.)	
(b)	If yes, please furnish the following details:—
(i)	Amount received (in Rs.):
(ii)	Date of receipt:

CLAUSE – 36A

Format in e-utility

A(a)

Whether the assessee has received any amount in the nature of dividend as referred to in sub-clause (e) of clause (22) of section 2.
(b) If yes, please furnish the following details:-

Select



S.No.		Amount received (in Rs.)	Date of receipt
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>

Whether the assessee has received any amount in the nature of dividend u/ (22)(e)? If yes, give details.

This clause has been added w.e.f. 20th August 2018.

Various aspects of section 2(22)(e) needs to be understood to report under this clause, and it includes:-

- Payment should be made by closely held company i.e., a company in which public are not substantially interested (including unlisted public company).
- Payment should be by way of advance or loan or the payment should be on behalf, or for the individual benefit, of the shareholder.

- Shareholder must be a person who is the registered / beneficial owner of shares holding not less than 10% of the voting power or to a concern (Company / Firm / HUF / etc.) in which such shareholder is having substantial interest i.e. 20% or more. For this purposes shareholder as an individual is to be considered and not along with his / her relatives.
- Dividend is deemed to the extent to which the company possesses accumulated profits on the date of giving loan / advance.
- The dividend taxable u/s 2(22)(e) is restricted to accumulated profits on the date of payment. Thus, the accumulated profits have to be determined as on the date of the payment. Further, if at any time earlier any amount has been taxed under any of the clauses of section 2(22) including clause (e), the accumulated profits will have to be reduced by the amount so taxed.

- Where the loan or advance is made by the closely held company to a concern, it is chargeable to tax in the hands of the shareholder and not in the hands of the concern till AY 2018-19.
- S. 2(22)(e) does not include any advance or loan made to a shareholder or the concern by a company in the ordinary course of its business, where the lending of money is a substantial part of the business of the company. Some of the decisions have held that 'substantial part' would indicate 20% i.e. where 20% or more funds have been deployed in the business of lending money the test of substantial part will be satisfied.

- Various courts have held that trade advances in the nature of commercial transactions would not fall within the ambit of the provisions of section 2(22)(e). The CBDT has issued Circular No. 19/2017 (F.No.279IMisc.1140/2015I1TJ) dated 12 June 2017 accepting this position. The circular gives various illustrations and citation of judicial decisions. Such cases need not be reported as dividend under this clause.
- Few cases have also held that inter-corporate deposits are not loans.
- There are various cases in favour of assessee taking loan due to commercial expediency, etc. which the auditor should be aware of.

The auditor should:

- Obtain list of all loans / advances received during the year by the assessee to test it for applicability of s. 2(22)(e). In case the assessee has not received any such amount during the year, no reporting may be required under this clause.
- Where the assessee has received any loan or advance from any company, the auditor should obtain its list of shareholders to test 10% / 20% test as discussed above..
- He should also obtain the financial statements of that company to ascertain its accumulated profits.

➤ The auditor may not be able to determine the accumulated profits of the closely held company making the payment for various reasons. He may not have access to the records of such closely held company, etc. In such a case the auditor should include appropriate remarks in clause (3) of Form No. 3CA or clause (5) of Form 3CB, as the case may be, about the methodology adopted by him, which could be as under:

- The assessee could not provide appropriate information / details to determine accumulated profits to enable us to report that the loan / advance received by the assessee is deemed dividend or not u/s 2(22)(e).

➤ He should also obtain from the assessee a certificate containing list of closely held companies in which he is beneficial owner of shares carrying not less than 10% of the voting power and list of concerns in which he has substantial interest.

➤ He should also obtain a certificate from the assessee giving particulars of any loans or advances received by any concern in which he has substantial interest from any closely held company in which he is beneficial owner of shares carrying not less than 10% voting power.

➤ If reliance has been placed on any judicial decision, a reference of the same may be given by the auditor as observations in clause (3) of Form No. 3CA or clause (5) of Form 3CB, as the case may be.


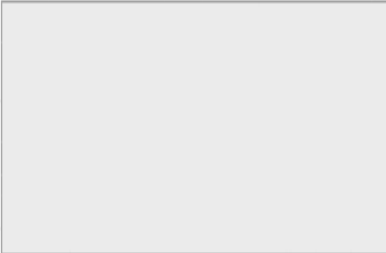
It may be noted that any payment made after 1 April 2018 which satisfies the conditions of section 2(22)(e), would be subject to DDT u/s 115-O in the hands of the company making the payment. However for AY 2018-19 it is taxable only in the hands of the shareholder.

CLAUSE - 37

37. Whether any cost audit was carried out, if yes, give the details, if any, of disqualification or disagreement on any matter/item/quantity as may be reported/identified by the auditor.

CLAUSE - 37

Format in e-utility

37	Whether any cost audit was carried out ?	Select 
	If yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the cost auditor.	

AS PER REVISED GUIDANCE NOTE 2014

64.1 The tax auditor should ascertain from the management whether cost audit was carried out and if yes, a copy of the same should be obtained from the assessee. .

Even though the tax auditor is not required to make any detailed study of such report, he has to take note of the the details of disqualification or disagreement on any matter/ item/ value/ quantity as may be reported/identified by the cost auditor.

The tax auditor need not express any opinion in a case where such audit has been ordered but the same has not been carried out.

AS PER REVISED GUIDANCE NOTE 2014

64.2 In cases where cost audit which might have been ordered is not completed by the time the tax auditor issues his report, he has to report appropriately in this report stating that since cost audit is not completed and the cost audit report is not available with the assessee.

64.3 The tax auditor should examine the time period for which the cost audit if any has been required to be carried out.

Information is required to be given only in respect of such cost audit report the time period of which falls within the relevant previous year.

In effect the information is required to be given in respect of that cost audit report which is received upto the date of tax audit report.

CLAUSE - 38

38. Whether any audit was conducted under the Central Excise Act, 1944, if yes, **give the details, if any, of disqualification or disagreement on any matter/item/quantity as may be reported/identified by the auditor**

CLAUSE - 38

Format in e-utility

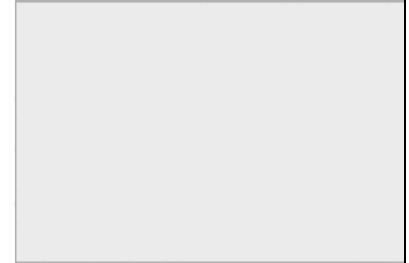
38

Whether any audit was conducted under the Central Excise Act, 1944 ?

Select



If yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the auditor.

A large, empty rectangular box with a light gray background, intended for the user to provide details of disqualification or disagreement.

AS PER REVISED GUIDANCE NOTE 2014

65.1 The tax auditor should ascertain from the management whether any audit was conducted under the Central Excise Act, 1944 and if such audit was carried out, obtain a copy of the report.

Even though the tax auditor is not required to make any detailed study of such report, he has to take note of the details if any, of disqualification or disagreement on any matter/ item/ value/ quantity as may be reported/identified by the auditor.

The tax auditor need not express any opinion in a case where such audit has been ordered but the same has not been carried out.

AS PER REVISED GUIDANCE NOTE 2014

65.2 In cases where excise audit which might have been ordered is not completed by the time the tax auditor gives his report, he has to report appropriately in this report stating that since excise audit is not completed and the excise audit report is not available with the assessee.

65.3 The tax auditor should examine the time period for which the excise audit, if any, has been required to be carried out.

Information is required to be given only in respect of such excise audit report the time period of which falls within the relevant previous year.

In effect the information is required to be given in respect of that excise audit report which is received upto the date of tax audit report.

CLAUSE - 39

39. Whether any audit was conducted under section 72A of the Finance Act, 1994 in relation to valuation of taxable services, if yes, give the details, if any, of disqualification or disagreement on any matter/item/quantity as may be reported/identified by the auditor.

CLAUSE - 39

Format in e-utility

39

Whether any audit was conducted under section 72A of the Finance Act, 1994 in relation to valuation of taxable services as may be reported/identified by the auditor. ?

Select

If yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the auditor.

AS PER REVISED GUIDANCE NOTE 2014

66.1 The tax auditor should ascertain from the management whether any audit was conducted under section 72A of the Finance Act, 1994 and if such audit was carried out, obtain a copy of the report.

Even though the tax auditor is not required to make any detailed study of such report, he has to take note of the details of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the auditor..

The tax auditor need not express any opinion in a case where such audit has been ordered but the same has not been carried out.

66.2 In cases where service tax audit, which might have been ordered is not completed by the time the tax auditor gives his report, he has to report appropriately in this report stating that since service tax audit is not completed and the service tax audit report is not available with the assessee.

AS PER REVISED GUIDANCE NOTE 2014

66.3 The tax auditor should examine the time period for which the service tax audit, if any, has been required to be carried out.

Information is required to be given only in respect of such service tax audit report the time period of which falls within the relevant previous year.

In effect the information is required to be given in respect of that service tax audit report which is received upto the date of tax audit report.

Clause Nos. 37 - 39

New Open Save Save Draft

Preview-Print

FORM3CB3CD

Instructions FORM-3CB 3CD Part A(1-8) 3CD Part B(9-20) 3CD Part B(21-41)

37 Whether any cost audit was carried out ?

Select

If yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the cost auditor.

Upper limit
of 500
characters

38 Whether any audit was conducted under the Central Excise Act, 1944 ?

Select

If yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the auditor.

39 Whether any audit was conducted under section 72A of the Finance Act, 1994 in relation to valuation of taxable services as may be reported/identified by the auditor. ?

Select

If yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the auditor.

CLAUSE - 40

40. Details regarding turnover, gross profit, etc., for the previous year and preceding previous year:

Serial number	Particulars	Previous year	Preceding previous year
1	Total turnover of the assessee		
2	Gross profit/turnover		
3	Net profit/turnover		
4	Stock-in-trade/turnover		
5	Material consumed/finished goods produced		

(The details required to be furnished for principal items of goods traded or manufactured or services rendered)

CLAUSE - 40

Format in e-utility

40 Details regarding turnover, gross profit, etc., for the previous year and preceding previous year:

Serial Number	Particulars	Previous Year			Preceding previous Year		
(a)	Total turnover of the assessee						
(b)	Gross profit / Turnover	Gross Profit	Turnover	(%)	Gross Profit	Turnover	(%)
(c)	Net profit / Turnover	Net Profit	Turnover	(%)	Net Profit	Turnover	(%)
(d)	Stock-in-Trade / Turnover	Stock-in-Tr	Turnover	(%)	Stock-in-Tr	Turnover	(%)
(e)	Material consumed / Finished goods produced	Materials co	Finished Goods	(%)	Materials co	Finished Goods	(%)

(The details required to be furnished for principal items of goods traded or manufactured or services rendered)

Following points should be noted by the auditor:

- As per Para 67.1 of ICAI Guidance Note on Tax Audit (Revised 2014), this clause is applicable only for assesseees who are engaged in manufacturing or trading activities. Even though, the clause states under the column 'The details required to be furnished for principal items of goods traded or manufactured or *services rendered*'.
- The ratios have to be given for the business as a whole and not product wise
- The ratio mentioned in (5) need not be given for trading concern or service provider.

- All the ratios mentioned in this clause are to be calculated and disclosed in terms of value only.
- Net profit to be shown here in this clause is net profit before tax.
- The term “stock-in-trade” would include only finished goods and would not include the raw material and work-in-progress since the objective here is to compute the stock turnover ratio. It would also not include stores and spare parts or loose tools.
- Material consumed would, apart from raw material consumed, include stores, spare parts and loose tools

➤ The value of finished goods produced may be arrived at by using the following formula:

Raw material consumption	XXXXXX
Stores and spare parts consumption	XXXXXX
Wages	XXXXXX
Other manufacturing expenses excluding depreciation	XXXXXX
SUB TOTAL	XXXXXX
Add : Opening stock in process – XXXX	
Deduct : Closing stocks in process – XXXX	
Value of Finished goods produced	XXXXXX

➤ Calculations of the ratios are also to be stated. If any of the above components is stated in the financial statements themselves, a reference to the same may be made, to the extent possible.

➤ Previous year figures should be taken from last year's tax audit report, and in case there is no tax audit in previous year, then nothing should be mentioned in that column.

CLAUSE - 41




41. Please furnish the details of demand raised or refund issued during the previous year under any tax laws other than Income Tax Act, 1961 and Wealth Tax Act, 1957 along with details of relevant proceedings.



CLAUSE - 41

Format in e-utility

41

Please furnish the details of demand raised or refund issued during the previous year under any tax laws other than Income-tax Act, 1961 and Wealth tax Act, 1957 alongwith details of relevant proceedings.

S.No		Financial year to which demand/refund relates to	Name of other Tax law	Type (Demand raised/Refund received)	Date of demand raised/refund received	Amount	Remarks
1	<input type="checkbox"/>	Select 	Select 	Select 	<input type="text"/>	<input type="text"/>	<input type="text"/>

 Add  Delete

S.No	Year	Name of other Tax law	Type (Demand raised/Refund received)	Date of demand raised/refund received	Amount	Remark
1	2001-02	Select	Select			
<div>+ Add</div> <div>- Delete</div>	2002-03	Select	Select			
	2003-04	Select	Select			
	2004-05	Central Excise Duty	Demand raised			
	2005-06	Central Custom Duty	Refund received			
	2006-07	Service Tax				
	2007-08	Sales Tax/VAT				
	2008-09	State Excise Duty				
	2009-10	Other Indirect Tax/duty				
Member	2010-11					
	2011-12					
FRN (Firm Reg	2012-13					
	2013-14					
	2014-15					
As	2015-16					
	2016-17			Select		
	2017-18					
	2018-19					
	2019-20					
	2020-21					

AS PER REVISED GUIDANCE NOTE 2014

68.1 The auditee may be assessed under various tax laws other than Income-tax Act, 1961 and Wealth-tax Act, 1956 resulting into a demand order or a refund order.

The tax auditor should obtain a copy of all the demand/ refund orders issued by the governmental authorities during the previous year under any tax laws other than Income Tax Act and Wealth Tax Act.

Normally, the Indirect tax laws such as Central Excise Duty, Service Tax, Customs Duty, Value Added Tax, CST, Professional Tax etc would be covered as other tax laws.

Hence, the cess or duty like Marketing Cess, Cess on Royalty, Octroi Duty, Entry Tax etc. would not be covered as other tax laws.

However, the auditor should exercise his professional judgment in determining the applicability to relevant tax laws for reporting under this clause.

AS PER REVISED GUIDANCE NOTE 2014

68.2 It may be noted that even though the demand/refund order is issued during the previous year, it may pertain to a period other than the relevant previous year.

In such cases also, reporting has to be done under this clause.

The tax auditor should verify the books of account and the orders passed by the respective Department for ascertaining whether any such demand has been raised or refund order has been issued under any other tax law and accordingly report the same.

If there is any adjustment of refund against any demand, the auditor shall also report the same under this clause.

AS PER REVISED GUIDANCE NOTE 2014

68.3 The tax auditor should maintain the following information in his working papers for the purpose of reporting against this clause in the format provided in the e-filing utility.

Sr. No.	Name of the applicable Act	Demand refund order No., If any	Date of Demand raised refund issued	Financial year to which the demand / refund relates	Amount of demand raised / refund issued	Adjustment of refund against demand, if any	Remarks
1	2	3	4	5	6	7	8

CLAUSE NO. 41 - Demand raised/Refund Issued

In the utility:

Drop down list for financial years (to which demand / refund pertains) is provided – 1980-1981 to 2020-21

- For date of demand /refund – drop down calendar is provided – from 1914 to 2019!!!
- The last column of “REMARKS” appears to be mandatory

CLAUSE – 42

(a) Whether the assessee is required to furnish statement in Form No.61 or Form No.61A or Form 61B? (Yes/No)

(b) If yes, please furnish :

Income tax Department Reporting Entity Identification Number	Type of Form	Due date for furnishing	Date of furnishing, if	Whether the Form contains information about all details/ furnished transactions which are required to be reported. If not, please furnish list of the details /transactions which are not reported.

Clause 42.

Form No.	Who has to file?	Due Date of furnish	Authority
Form 61	Every person who has received any declaration in Form No. 60 (No PAN), on or after the 01.01.2016, in relation to a transaction specified in rule 114B, shall furnish a statement in Form No. 61 containing particulars of such declaration.	<ul style="list-style-type: none">• where the declarations are received by the 30th Sep., be furnished by the 31st October of that year; and• where the declarations are received by the 31st March, be furnished by the 30th April of the financial year immediately following the financial year in which the form is received.	The form 61 shall be furnished to the Director of Income-tax (Intelligence and Criminal Investigation) or the Joint Director of Income-tax (Intelligence and Criminal Investigation) through online transmission of electronic data to a server designated for this purpose.

Clause 42.

Form No.	Who has to file?	Due Date of furnish	Authority
Form 61A	Statement of Financial Transactions (SFT) is a record of the statement of specified financial transactions which are required to be furnished u/s 285BA of the Act shall be furnished in Form No. 61A. The nature and value of transaction to be furnished by the reporting person as specified under Rule 114E.	The form 61A shall be furnished on or before the 31 st May, immediately following the FY in which the transaction is registered or recorded. Assessee is not able to do so, the authorities would issue a notice to such an assessee, demanding the assessee to submit the form within 30 days from issuance of such notice.	It shall be furnished to the Director of Income-tax (Intelligence and Criminal Investigation) or the Joint Director of Income-tax (Intelligence and Criminal Investigation) through online transmission of electronic data to a server designated for this purpose.

Clause no. 42

Form No.	Who has to file?	Due Date of furnish	Authority
Form 61B	<p>This is a statement of reportable account required to be furnished under section 285BA(1)(k) shall be furnished by a reporting financial institution in respect of each account which has been identified, pursuant to due diligence procedure specified in rule 114H, as a reportable account:</p> <p><i>Provided that where pursuant to such due diligence procedures no account is identified as a reportable account, a nil statement shall be furnished by the reporting financial institution.</i></p>	<p>The Form No. 61B shall be furnished for every calendar year by the 31st day of May following that year.</p> <p><i>Provided that the statement pertaining to calendar year 2014 shall be furnished by the 31st day of August, 2015.</i></p>	<p>It shall be furnished to the Director of Income-tax (Intelligence and Criminal Investigation) or the Joint Director of Income-tax (Intelligence and Criminal Investigation) through online transmission of electronic data.</p>

For what and by whom Form 61A is filed?

[Rule - 114 E]

S. No	Nature and value of transaction	Class of person (reporting person)
1	<p>a) Payment made in cash for purchase of bank drafts or pay orders or banker's cheque of an amount aggregating to <u>ten lakh rupees</u> or more in a financial year.</p> <p>b) Payments made in cash aggregating to ten lakh rupees or more during the financial year for purchase of pre-paid instruments issued by RBI.</p> <p>c) Cash deposits or cash withdrawals (including through bearer's cheque) aggregating to fifty lakh rupees or more in a financial year, in or from one or more current account of a person.</p>	<p>A banking company or a co-operative bank to which the Banking Regulation Act applies (including any bank or banking institution referred to in section 51 of that Act).</p>
2	<p>Cash deposits aggregating to ten lakh rupees or more in a financial year, in one or more accounts (other than a current account and time deposit) of a person.</p>	<ul style="list-style-type: none"> • Same as above and, • Post Master General as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898.

S. No	Nature and value of transaction	Class of person (reporting person)
3	<p>One or more time deposits (other than a time deposit made through renewal of another time deposit) of a person aggregating to ten lakh rupees or more in a financial year of a person.</p>	<ul style="list-style-type: none"> • Banking company and Post Master General as earlier, • Nidhi Companies • Non-banking financial company which holds a certificate of registration under section 45-IA of the RBI Act, to hold or accept deposit from public.
4	<p>Payments made by any person of an amount aggregating to—</p> <p>(i) one lakh rupees or more <u>in cash</u>; or</p> <p>(ii) ten lakh rupees or more by <u>any other mode</u>, against bills raised in respect of one or more credit cards issued to that person, in a financial year</p>	<p>A banking company as specified earlier and any other company or institution issuing credit card.</p>
5	<p>Receipt from any person of an amount aggregating to ten lakh rupees or more in a financial year for acquiring bonds or debentures issued by the company or institution (other than the amount received on account of renewal of the bond or debenture issued by that company).</p>	<p>A company or institution issuing bonds or debentures</p>

S. No	Nature and value of transaction	Class of person (reporting person)
6	Receipt from any person of an amount aggregating to ten lakh rupees or more in a financial year for acquiring shares (including share application money) issued by the company.	A company issuing shares.
7	Buy back of shares from any person (other than the shares bought in the open market) for an amount or value aggregating to ten lakh rupees or more in a financial year.	A company listed on a recognised stock exchange purchasing its own securities under section 68 of the Companies Act, 2013
8	Receipt from any person of an amount aggregating to ten lakh rupees or more in a financial year for acquiring units of one or more schemes of a Mutual Fund (other than the amount received on account of transfer from one scheme to another scheme of that Mutual Fund).	A trustee of a Mutual Fund or such other person managing the affairs of the Mutual Fund as may be duly authorised by the trustee in this behalf.

S. No	Nature and value of transaction	Class of person (reporting person)
9	Receipt from any person for sale of foreign currency including any credit of such currency to foreign exchange card or expense in such currency through a debit or credit card or through issue of travellers cheque or draft or any other instrument of an amount aggregating to ten lakh rupees or more during a financial year.	Authorised person as referred to section 2(c) of the Foreign Exchange Management Act, 1999.
10	Purchase or sale by any person of immovable property for an amount of thirty lakh rupees or more or valued by the stamp valuation authority referred to in section 50C of the Act at thirty lakh rupees or more.	Inspector-General appointed u/s 3 of the Registration Act or Registrar or Sub-Registrar appointed under that Act.
11	Receipt of cash payment exceeding two lakh rupees for sale, by any person, of goods or services of any nature (other than those specified at Sl. Nos. 1 to 10 of this rule, if any.)	Any person who is liable for audit under section 44AB of the Act.

S. No	Nature and value of transaction	Class of person (reporting person)
12	<p>Cash Deposits during the period 9th November 2016 to 30th December 2016 aggregating to –</p> <ul style="list-style-type: none"> • 12,50,000 or more in one or more current a/c of a person, or • 2,50,000 or more in one or more a/c (other than a current a/c) of a person 	A banking company and Postmaster General as mentioned above.
13	Cash Deposits during the period of 1st April 2016 to 9th November 2016 in respect of accounts that are reportable under Serial No. 12	A banking company and Postmaster General as mentioned above.

Reportable Account [Rule – 114F(6)]

A **Reportable Account** means a financial account, which has been identified pursuant to the due diligence procedure, as held by:

- 1) A reportable person; or
- 2) An entity, not based in United States of America, with one or more controlling persons that is a specified U.S. person; or
- 3) A passive non-financial entity with one or more controlling persons that is a person described in sub-clause (b) of clause (8) of the rule 114F.

Reporting Financial Institution (i.e. RFI) [Rule – 114F(7)]

“Reporting financial institution” means,-

- a) a financial institution (other than a non-reporting financial institution) which is resident in India, but excludes any branch of such institution, that is located outside India; and
- b) any branch, of a financial institution (other than a non-reporting financial institution) which is not resident in India, if that branch is located in India;

Reportable person [Rule – 114F(8)]

Reportable person" means,-

- a) one or more specified U.S. persons; or
- b) one or more persons other than,-
 - i. a corporation, the stock of which is regularly traded on one or more established securities markets;
 - ii. any corporation that is a related entity of a corporation mentioned in item (i);
 - iii. a Governmental entity;
 - iv. an International organisation;
 - v. a Central bank; or
 - vi. a financial institution,

that is a resident of any country or territory outside India (except the United States of America) under the tax laws of such country or territory or an estate of a decedent who was a resident of any country or territory outside India (except the United States of America) under the tax laws of such country or territory;

U.S. Person [Rule – 114F(10)]

"U.S. person" means,-

- a) an individual, being a citizen or resident of the United States of America ;
- b) a partnership or corporation organized in the United States of America or under the laws of the United States of America or any State thereof;
- c) a trust if,-
 - i. (i) a court within the United States of America would have authority under applicable law to render orders or judgments concerning substantially all issues regarding administration of the trust; and
 - ii. (ii) one or more U.S. persons have the authority to control all substantial decisions of the trust; or
- d) an estate of a decedent who was a citizen or resident of the United States of America;

Information to be maintained and reported

[Rule – 114G]

After the RFI has identified the reportable accounts, RFI needs to report specific information in respect of each reportable account. As per Rule 114G(1), RFI needs to maintain and report the following information in case of each Reportable Account:

- a) **The name, address, taxpayer identification number** (assigned to the account holder by the country or territory of his residence for tax purposes) and **date and place of birth** (in the case of an individual) **of each reportable person**, that is an account holder of the account;
- b) **In the case of any entity which is an account holder** and which, after application of due diligence procedures prescribed in rule 114H, is identified as having one or more controlling persons that is a reportable person,-
 - ☐ **The name and address of the entity, taxpayer identification number** assigned to the entity by the country or territory of its residence; and
 - ☐ **The name, address, date and place of birth of each such controlling person and taxpayer identification number** assigned to such controlling person by the country or territory of his residence;

Information to be maintained and reported

[Rule – 114G]


- c) The account number** (or functional equivalent in the absence of an account number);
- d) The account balance or value** (including, in the case of a cash value insurance contract or annuity contract, the cash value or surrender value) at the end of relevant calendar year or, if the account was closed during such year, immediately before closure;
- e) in the case of any custodial account,-**
 - ☐ the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year; and
 - ☐ the total gross proceeds from the sale or redemption of financial assets paid or credited to the account during the calendar year with respect to which the reporting financial institution acted as a custodian, broker, nominee, or otherwise as an agent for the account holder;



Information to be maintained and reported [Rule – 114G]

- f) in the case of any depository account, the total gross amount of interest paid or credited to the account during the relevant calendar year;*
- g) in the case of any account other than that referred to in clause (e) or (f), the total gross amount paid or credited to the account holder with respect to the account during the relevant calendar year with respect to which the reporting financial institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the account holder during the relevant calendar year; and*
- h) in the case of any account held by a non-participating financial institution, for calendar year 2015 and 2016, the name of each non-participating financial institution to which payments have been made and the aggregate amount of such payments:*

CLAUSE - 42

Format in e-utility

42 (a) Whether the assessee is required to furnish statement in Form No.61 or Form No. 61A or Form No. 61B? 
(b) If yes, please furnish

S.No.		Income-tax Department Reporting Entity Identification Number	Type of Form	Due date for furnishing	Date of furnishing, if furnished	Whether the Form contains information about all details/ transactions which are required to be reported.	If not, please furnish list of the details/transactions which are not reported.
1	<input type="checkbox"/>	<input type="text"/>	<input type="text" value="Select"/> 	<input type="text" value="DD/MM/YYYY"/>	<input type="text" value="DD/MM/YYYY"/>	<input type="text" value="Select"/> 	<input type="text"/>

Select

Form No.61

Form No.61A

Form No.61B

Select

Yes

No

CLAUSE 43

43. (a) Whether the assessee or its parent entity or alternate reporting entity is liable to furnish the report as referred to in subsection (2) of section 286? (Yes/No)

(b) If yes, please furnish the following details :

- i. Whether report has been furnished by the assessee or its parent entity or an alternate reporting entity
- ii. Name of parent entity
- iii. Name of alternate reporting entity (if applicable)
- iv. Date of furnishing of report

CLAUSE - 43

Format in e-utility

43

(a) Whether the assessee or its parent entity or alternate reporting entity is liable to furnish the report as referred to in sub-section (2) of section 286

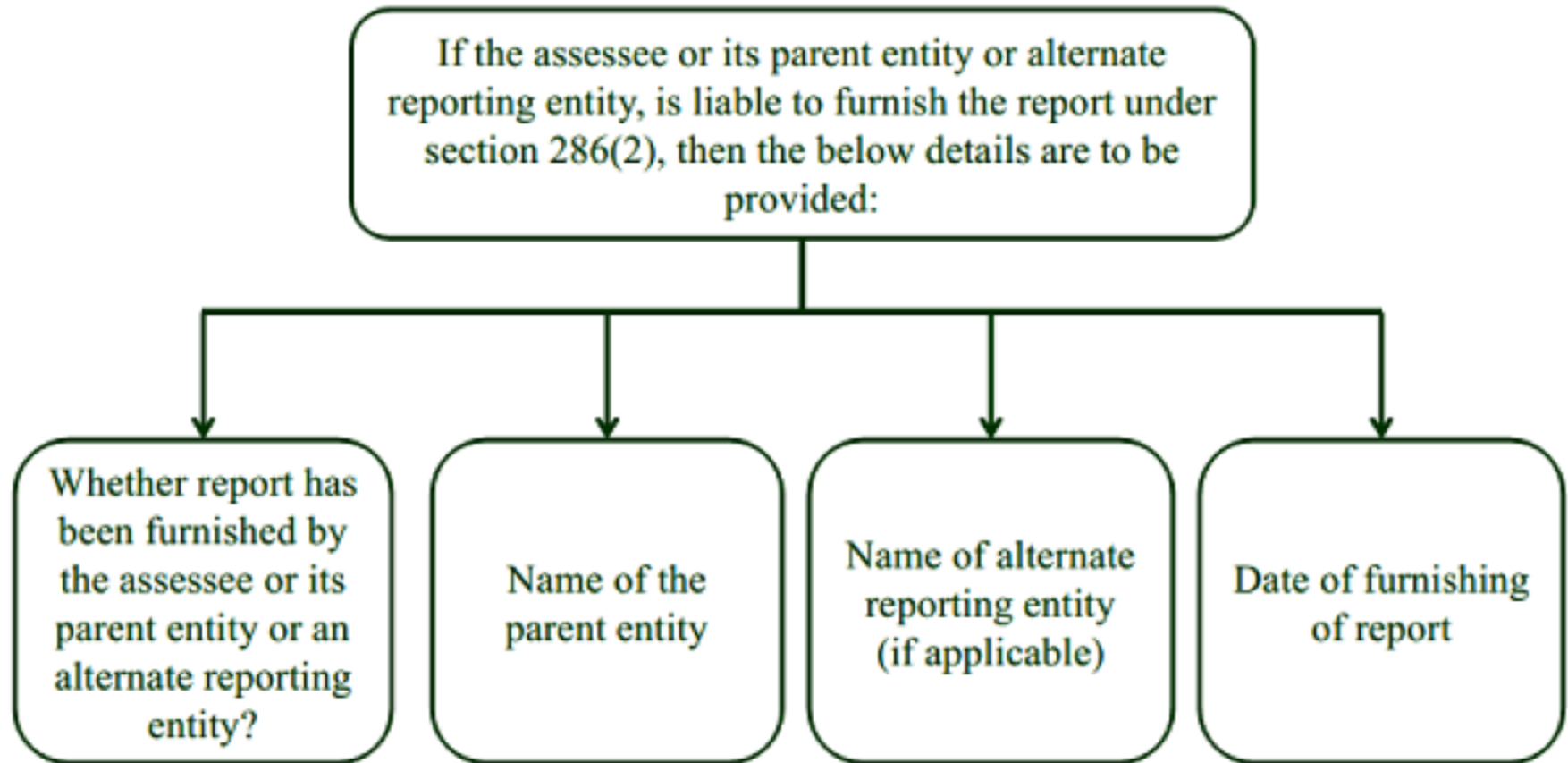
(b) if yes, please furnish the following details:

Whether report has been furnished by the assessee or its parent entity or an alternate reporting entity	Name of parent entity	Name of alternate reporting entity (if applicable)	Date of furnishing of report
<input type="text" value="Select"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="DD/MM/YYYY"/>

c) If Not due , please enter expected date of furnishing the report

NEWLY INSERTED IN FORM 3CD

Furnishing of report in respect of international group [section 286] [Clause 43]



[Furnishing of report in respect of international group.]

286. (1) Every constituent entity resident in India, shall, if it is constituent of an international group, the parent entity of which is not resident in India, notify the prescribed income-tax authority (herein referred to as prescribed authority) in the form and manner, on or before such date, as may be prescribed,—

(a) whether it is the alternate reporting entity of the international group; or

(b) the details of the parent entity or the alternate reporting entity, if any, of the international group, and the country or territory of which the said entities are resident.

(2) Every parent entity or the alternate reporting entity, resident in India, shall, for every reporting accounting year, in respect of the international group of which it is a constituent, furnish a report, to the prescribed authority [within a period of twelve months from the end of the said reporting accounting year], in the form and manner as may be prescribed.

CLAUSE – 44

(Inserted vide Notification No. 33/2018 dated 20/07/2018)

44. Break-up of total expenditure of entities registered or not registered under the GST:

Sl. No	Total amount of Expenditure incurred during the year	Expenditure in respect of entities registered under GST				Expenditure relating to entities not registered under GST
		Relating to goods or services exempt from GST	Relating to entities falling under composition scheme	Relating to other registered entities	Total payment to registered entities	
(1)	(2)	(3)	(4)	(5)	(6)	(7)

***This clause is kept in abeyance till 31st March 2020 vide circular No. 9/2019 dated 14/05/2019**

44. Break-up of total expenditure of entities registered or not registered under the GST:

Sl. No.	Total amount of Expenditure incurred during the year	Expenditure in respect of entities registered under GST				Expenditure relating to entities not registered under GST
		Relating to goods or services exempt from GST	Relating to entities falling under composition scheme	Relating to other registered entities	Total payment to registered entities	
(1)	(2)	(3)	(4)	(5)	(6)	(7)"

Total Expenses include capital expenses and revenue expenses?

44. Break-up of total expenditure of entities registered or not registered under the GST:

Sl. No.	Total amount of Expenditure incurred during the year	Expenditure in respect of entities registered under GST				Expenditure relating to entities not registered under GST
		Relating to goods or services exempt from GST	Relating to entities falling under composition scheme	Relating to other registered entities	Total payment to registered entities	
(1)	(2)	(3)	(4)	(5)	(6)	(7)"

Total expenses during the year suggests entire year's expense has to be reported.

Relating to goods or services exempt from GST

- Sec 2(47) of CGST Act: "**exempt supply**" means supply of any goods or services or both which attracts ***nil* rate of tax** or which may be wholly **exempt from tax** under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and **includes non-taxable supply**;

44. Break-up of total expenditure of entities registered or not registered under the GST:

Sl. No.	Total amount of Expenditure incurred during the year	Expenditure in respect of entities registered under GST				Expenditure relating to entities not registered under GST
		Relating to goods or services exempt from GST	Relating to entities falling under composition scheme	Relating to other registered entities	Total payment to registered entities	
(1)	(2)	(3)	(4)	(5)	(6)	(7)

- Entity dealing in exempt goods and services may not be registered under GST. Eg: Petrol and Diesel.
- Such expenses to be filled under column 3 or column 7?

Relating to entities falling under composition scheme

44. Break-up of total expenditure of entities registered or not registered under the GST:

Sl. No.	Total amount of Expenditure incurred during the year	Expenditure in respect of entities registered under GST				Expenditure relating to entities not registered under GST
		Relating to goods or services exempt from GST	Relating to entities falling under composition scheme	Relating to other registered entities	Total payment to registered entities	
(1)	(2)	(3)	(4)	(5)	(6)	(7)

How to identify whether a vendor is under composition or regular scheme?

Verify purchase document– Bill of supply vs Tax invoice

Verify online - <https://services.gst.gov.in/services/searchtp>

Issues in classification of expenses

- Diwali Pooja expenses paid in cash on 20.10.2017 – Rs. 10,451/-

Particulars	Amount(Rs.)
Flowers	1750
Kapoor and Agarbathi	450
Sweets and Dry Fruits	4500
Paid to poojari	2500
Fruits	500
Kumkum and Haldi	250
Coconut	50
Vouchers not available	451

Issues in classification of expenses

- Provision for expenses
- Depreciation
- Prepaid expenses of earlier years now debited to profit and loss account
- Salary costs
- Interest
- Bad debts
- Discounts and rebates allowed
- Contribution to PF / ESI
- Rates and taxes
- Round off

Practical Solutions – way out

1. Do a complete verification and provide these details on a **separate assignment basis**.

2. Ask client to prepare data and do test checks and give a disclaimer in audit report:

Clause 44- We have verified the breakup of expenses registered or not registered under GST, as provided by the assessee, in accordance with the Auditing Standards generally accepted in India and the recommendation of the Institute of Chartered Accountants of India which include test checks and the concept of materiality

3. Do not provide any information and give appropriate disclaimers in the Form 3CD:

Clause 44 – The assessee has submitted that books of accounts have not been maintained in a manner to provide GST breakup of expenses as there was no such requirement earlier. It would practically not be feasible to rewrite the entire books considering the new reporting requirement. Further expenses like depreciation, bad debts, discounts etc are not supplies under GST and therefore cannot be bifurcated as per requirements of Clause 44. In light of above and voluminous transactions we are unable to provide details as asked for under Clause 44 of Form 3CD.

Clause 44

***Deferred further till 31st March 2022
vide Circular No. 05/2021 dt. 25.03.2021***

- Reporting under clause 30C and clause 44 of the Tax Audit Report was kept in abeyance till 31st March, 2019 vide Circular No. 6/2018 dated 17.08.2018, which was subsequently extended to 31 .03.2020 vide Circular No. 9/2019 which was further extended to 31.03.2021 vide Circular No. 10/2020.
- Due to difficulty in implementation of reporting requirements under clause 30C and clause 44 of the Form No. 3CD of the Income-tax Rules, 1962 in view of the Global Pandemic due to COVID-19 virus it was decided by the Board that the reporting under clause 30C and clause 44 of the Tax Audit Report kept in abeyance till 31st March, 2022.

Penalty for failure to get accounts Audited- Sec. 271B

If the assessee fails to get his accounts audited or furnish a report of such audit u/s 44AB,

- a flat penalty u/s 271B shall be attracted.

1/2 of total Sales, turnover or gross receipts in business / profession

Or

Sum of Rs. 150,000 (w.e.f.1-4-2011) (*prior to that max. penalty was Rs. 1 Lac*)

(Whichever is less)

- No penalty shall be imposed u/s 271B, if assessee proves that there was reasonable cause for such failure. [**Section 273B**]

The penalty order u/s 271B is appealable in view of S.246A(1)(m)

Reasonable Causes

- a. Resignation of tax auditor and consequent delay;
- b. Bona fide interpretation of the 'turnover' based on expert advice;
- c. Death or physical inability of the partner in charge of the account
- d. Labor problems such as strike, lock-out for a long period, etc;
- e. Loss of accounts because of fire, theft, etc., beyond the control of the assessee;
- f. Non-availability of accounts on account of seizure;
- g. Natural calamities, commotion, etc.

Penalty for failure to get accounts Audited- Sec. 271B.....

- No penalty under Section 271B by ITO exceeding Rs. 10,000 in absence of prior approval of Joint Commissioner. **Sagar Dutta Vs. CIT, [2014] 44 taxmann.com 311 (Calcutta)**
- Held that no penalty is imposable u/s 271B for non-compliance with the provisions of Sec. 44AB on the ground that the returns were filed belatedly. Penalty is leviable only if the assessee fails to get his accounts audited and obtain a report. **CIT v. Apex Laboratories Pvt. Ltd. [2010] 320 ITR 498 (Mad)**

Penalty for failure to get accounts Audited- Sec. 271B.....

For purpose of Sec. 44AB turnover of all businesses carried on by assessee has to be **considered but provisions of Sec. 271B can be applied only in respect of that business, accounts of which have not been audited and not in respect of accounts which have been audited.** *Asst. CIT v. Smt. Bharti Sharma [2011] 44 SOT 230 (Del.)*

Where assessee, an advertising agent, was under bona fide belief that commission income earned by him was not in excess of limits prescribed under section 44AB and, thus, he was not required to get books of account audited, impugned penalty order passed under section 271B deserved to be set aside. *Manoj S. Gugale vs. ITO [2017] 80 taxmann.com 193 (Pune – Trib.). Also see Off-shore India Ltd. Vs. DCIT [2017] 167 ITD 0635 (Kol.- Trib.)*

Issue: delay in filing return

CIT v. U.P. Rajya Sahkari Evam Bhoomi Vikas Bank Ltd [2013] 35 taxmann.com 471 (Allahabad)

Where assessee had provided books of account to auditors in time, but failed to get accounts audited in time due to **delay on part of auditors**, penalty under section 271B was not leviable as there was reasonable cause for delay

Thanjavur Silk Handloom Weavers Co-operative Production & Sales Society Ltd. v. Union of India [2003] 132 Taxman 846 (Mad.) & CIT v. Sumer Chand Jain & Sons [2002] 122 Taxman 654 (Punj. & Har.)

In these cases, the assessee failed to file audit report within specified date, but showed a **reasonable cause** for the same then, the revenue authorities have discretion to accept the said cause for delay in filing the return. Hence, penalty u/s 271B cannot be imposed.

Issue: delay in filing return

CIT v. Iqbalpur Cooperative Cane Development Union Ltd. [2013] 37 taxmann.com 421 (Uttarakhand)

It was **not within assessee's domain to appoint the auditor** or to have auditor appointed by registrar or State Government to complete audit within specified date, thus, penalty u/s 271B is not justified for delay in filing the audit report.

Lakshmi Card Clothing Manufacturing Co. (P.) Ltd. v. Deputy CIT [2013] 35 taxmann.com 235 (Madras)

In this case the delay in filing audit report was due to the illness of assessee's auditor, which amounted to a **reasonable cause** thus, penalty u/s 271B should not be imposed.

Metro Agencies v. Deputy CIT [2014] 45 taxmann.com 97 (Kerala)

In this case, assessee-firm maintained proper documents for conducting its partnership business, but the firm delayed in filing the audit report with a plea of the absence of accountant. The **cause was unreasonable** & was not acceptable and, thus, impugned penalty order passed u/s 271B was to be upheld.

Issue: delay in filing return

APL (India) (P.) Ltd. v. Joint CIT [2014] 41 taxmann.com 85 (Mumbai - Trib.)

In this case, statutory audit was completed late by the auditors and consequently there was a delay in receiving tax audit report. It amounted to a reasonable cause for non-compliance with provisions of section 44AB. Thus, penalty u/s 271B is not justified.

Issue: Failure to get accounts audited

Bajrang Oil Mills v. ITO [2007] 163 TAXMAN 154 (RAJ.)

The assessee was under a **bona fide belief** that it was not required to get its account audited u/s 44AB as its sales and job work receipts did not exceed the prescribed limit on being considered separately. But it was held that the expression 'total' qualifies all the three expressions, viz., 'sales', 'turnover' and 'gross receipts' & total sales indicate aggregate price of sales of commodities carried out by assessee as a trading business. Thus, the receipts by way of sale or trading business and receipts for doing job work is to be clubbed for comparison to the prescribed limit but there was **reasonable cause** for assessee's failure to comply with provision of section 44AB and, therefore, penalty levied was unjustified.

Anahaita Nalin Shah v. DCIT [2014] 43 taxmann.com 206 (Mumbai - Trib.)

Assessee was into speculative business of shares & the transactions entered into by her were more than prescribed monetary limit for tax audit under section 44AB. Moreover, **no bona fide reasons** were furnished by the assessee, for failure to get books of accounts audited. Thus, levying penalty u/s 271B is justified.

Issue: Books cannot be rejected after tax audit u/s 44AB

- **R.C. Auto Centre (S.I.) v. ITO [2014] 46 taxmann.com 258 (Madras)**

It was held that books of account cannot be rejected and best judgment assessment cannot be done in a case where accounts have been audited by a qualified Chartered Accountant under section 44AB.

Issue: Audit under other law

- **Mathura Zila Sahkari Bank Ltd. v. Deputy CIT [2004] 4 SOT 248 (AGRA)**
- Assessee is a co-operative society, thus it was required to get its accounts audited under the Co-operative Societies Act, 1912 or under the State Acts. It was held that if the accounts are audited under other law it will suffice and no further audit under section 44AB is required to be done. Hence, there is no default under the provisions of section 44AB & penalty u/s 271B is unjustified.

Audit report disclosure in 2025*(forecast)

- Firm Name
- Auditor's name
- MRN
- FRN
- PAN
- UDIN
- Birth certificate No.of CA
- BLOOD GROUP OF CA
- DNA TEST REPORT
- Adhar of CA
- Adhar of Client
- Google Tag of CA's Office
- PIC WITH CLIENT
- Live video with client 30 second,
- Biometric verification of Fingerprints, Heartbeat and Retina scan!!
- Birth certificate of clints....
- fingers print of Accountants..
- GST NO.
- PASSPORT NO.
- Clint Vehicle no..
- Employees all mentioned above...



*Thanks to my computer operator
Sri. N. Beeresh Kumar*

**THE
METAMORPHOSIS
OF INCOME TAX
LAW AND
PRACTICE –
A PERSPECTIVE &
WAY FORWARD**

CA T S AJAI

The Metamorphosis of the World

Ulrich Beck



“We live in a world that is increasingly difficult to understand. It is not just changing: it is metamorphosing. Change implies that some things change but other things remain the same capitalism changes, but some aspects of capitalism remain as they always were. Metamorphosis implies a much more radical transformation in which the old certainties of modern society are falling away and something quite new is emerging. To grasp this metamorphosis of the world it is necessary to explore the new beginnings, to focus on what is emerging from the old and seek to grasp future structures and norms in the turmoil of the present.”

“Change implies some things change but others remain the same” , whereas with “metamorphosis,” a more extensive and lasting transformation occurs, utilizing the concept of change and moving beyond change exclusively. - **Ulrich Beck**

Metamorphosis of Income Tax Law and Practice.....



2016

2021

After 2021

Income Tax Ecosystem

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INCOME QUANTIFICATION

- FAIR MARKET VALUE AS BASIS OF INCOME
- PRESUMPTIVE INCOME
- ICDS
- PHASING OUT DEDUCTIONS AND INCENTIVES
- MANDATORY PENALTIES – AS DETERRENTS

FAIR MARKET VALUE AS BASIS OF INCOME

- **FMV ON TRANSFER OF LAND AND BUILDING**

Section 43CA and Section 50C : Computation of Profits and gains/Capital gains on Transfer of land and Building or both based on actual consideration or stamp duty value whichever is higher.

- **Section 183 of Income Declaration Scheme, 2016 : Declaration of undisclosed income.**

183 . (1) Subject to the provisions of this Scheme, any person may make, on or after the date of commencement of this Scheme but before a date to be notified by the Central Government in the Official Gazette, a declaration in respect of any income chargeable to tax under the Income-tax Act for any assessment year prior to the assessment year beginning on the 1st day of April, 2017, which has escaped assessment by reason of the omission or failure on the part of such person to furnish a return under the Income-tax Act or to disclose fully and truly all material facts necessary for the assessment or otherwise.

(2) Where the income chargeable to tax is declared in the form of investment in any asset, the fair market value of such asset as on the date of commencement of this Scheme shall be deemed to be the undisclosed income for the purposes of sub-section (1).

(3) The fair market value of any asset shall be determined in such manner, as may be prescribed.

(4) No deduction in respect of any expenditure or allowance shall be allowed against the income in respect of which declaration under this section is made.

FAIR MARKET VALUE AS BASIS OF INCOME

- **Section 197 of Income Declaration Scheme, 2016 : Consequence of non declaration.**

(a)

(b)

(c) where any income has accrued, arisen or received or any asset has been acquired out of such income prior to commencement of this Scheme, and no declaration in respect of such income is made under this Scheme,—

**(i) such income shall be deemed to have accrued, arisen or received, as the case may be
or**

(ii) the value of the asset acquired out of such income shall be deemed to have been acquired or made, in the year in which a notice under section 142, sub-section (2) of section 143 or section 148 or section 153A or section 153C of the Income-tax Act is issued by the Assessing Officer, and the provisions of the Income-tax Act shall apply accordingly.

IT IS TO BE NOTED THAT 197(C) HAS BEEN OMITTED BY FA 2017, BUT CONCEPT OF “ INCOME WHICH HAS ESCAPED ASSESSMENT REPRESENTED IN THE FORM OF ASSET” ADDED IN 153A. FURTHER IN SECTION 149 BY FA 2021 W.E.F. 1.04.2021.

FAIR MARKET VALUE AS BASIS OF INCOME

- **FMV OF ASSETS OF CHARITABLE TRUSTS TO BE TAXED AT MAXIMUM MARGINAL RATE**

Section 115TD, by Finance Act, 2016, if the registration granted to a Trust u/s 12AA is cancelled or if the Trust ceases to be eligible for Registration, then the accreted income that is the FMV of the total assets of the Trust less liabilities shall be liable to tax at the maximum marginal rate. FMV of immovable property shall be the higher of value as per Registered Valuer and Stamp duty value. No deduction under any other provisions of the Act shall be allowed to the Trust or any other person in respect of the above accreted income charged to tax.

- **FMV ON TRANSFER OF UNQUOTED SHARES**

SECTION 50CA, by Finance Act 2017, mandates that, Computation of Capital gains on Transfer of unquoted shares shall be based on actual consideration or FMV computed under rule 11UAA, whichever is higher.

- **DEEMED INCOME ON DIFFERENCE BETWEEN FMV AND ACTUAL CONSIDERATION**

Section 56(2)(x), by Finance Act, 2017, made applicable to all assesses, as against the earlier provision of Section 56(2)(vii) applicable only to Individuals and HUF, provides for deeming the excess of FMV over the actual consideration as deemed income in the hands of the transferee, subject to certain specified exemptions.

FAIR MARKET VALUE AS BASIS OF INCOME

- **FMV ON CONVERSION OF STOCK IN TRADE INTO CAPITAL ASSET**

Section 28 (via), by Finance Act, 2018, provides that, “ the fair market value of inventory as on the date on which it is converted into, or treated as, a capital asset determined in the prescribed manner (Rule 11UAB), shall be chargeable to income tax as Profits and gains of business.

- **FMV ON SLUMP SALE**

Section 50B (2)(ii), by Finance Act, 2021, provides that, “ in relation to capital assets being an undertaking or division transferred by way of slump sale,- fair market value of the capital assets as on the date of transfer, calculated in the prescribed manner, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset”.

The Valuation Rule is yet to be notified. It will be interesting to see whether the rule would prescribe valuation of the undertaking as a whole or whether it would be item by item and whether inventory would also be valued at FMV.

FAIR MARKET VALUE AS BASIS OF INCOME

- **FMV ON CAPITAL ASSETS OR STOCK IN TRADE RECEIVED BY PARTNER**

Section 9B, by Finance Act 2021, provides that if a partner receives any asset or stock in trade on dissolution or reconstitution of the firm, then the firm shall be deemed to have transferred such asset to the partner. Further, the FMV of such asset shall be deemed to be the “full value of consideration” and the firm be liable to tax on the capital gains/ profits and gains arising out of such deemed transfer.

Section 45(4), substituted by FA 2021, provides that in addition to the tax u/s9B as above, the firm in the case of reconstitution, shall be liable to tax on Capital gains computed as the difference between, Value of money and FMV of any asset received by the partner less the amount of balance in the capital account of the partner, excluding revaluation credits.

PRESUMPTIVE INCOME

- A significant number of non corporate taxpayers are covered under the presumptive income schemes u/s 44AD, 44ADA and 44AE.
- Post 2017, the flagship presumptive scheme u/s 44AD is enlarged to cover more taxpayers by increasing the maximum limit of turnover to 2 Crores. Further, the scheme is made more attractive by reducing the rate of income to 6% (instead of 8%) in respect of transactions through Bank or prescribed electronic modes.
- These changes have significant impact in simplifying the tax eco system .

ICDS - MADE EFFECTIVE

- The following amendments, by Finance Act 2018, are retrospective and applicable from FY 2016-17 onwards, in order to give legitimacy to ICDS and to put at rest doubts raised by various judgements :
 - Mark to Market loss computed in accordance with ICDS shall be allowed as deduction from the Income under PGBP – **Section 36(1)(xviii).**
 - Foreign Exchange Gains/Losses arising on account of change in rates of exchange shall be allowed as deduction in accordance with ICDS. This means that loss and gains of capital nature other than Section 43A are also taxed or allowed as deduction in the year of realization or restatement, as the case may be – **Section 43AA.**
 - Income from Construction Contracts or Service Incomes shall be determined as per percentage of completion method (PCM) (except service contracts for a period of upto 90 days which can be recognized on full completion)– **Section 43CB;**
 - Inventory shall be valued at Cost or NRV whichever is lower computed in manner as per ICDS – **Section 145A.**
 - Listed Securities shall be valued at Cost or NRV whichever is lower (in case held as stock) – **Section 145A**
 - Unlisted/ Unquoted Securities shall be valued at initial cost – **Section 145A.**
 - Interest on compensation or enhanced compensation shall be taxable on receipt basis – **Section 145B**
 - Escalation claims and Export incentives shall be recognized as Income when reasonable certainty is achieved – **Section 145B.**
 - Subsidy, Grant, Cash Incentives, Duty Drawback etc. are recognized as Income of the year in which such amount is received – **Section 145B.**

PHASING OUT DEDUCTIONS AND INCENTIVES

The Finance Minister in his Budget Speech, 2015 has indicated that the rate of corporate tax will be reduced from 30% to 25% over the next four years along with corresponding phasing out of exemptions and deductions. The Government proposed to implement this decision in a phased manner. In this regard, broad guiding principles had been put in the public domain for receiving comments from the stakeholders. These guiding principles are listed below for reference.

- (a) Profit linked, investment linked, and area-based deductions will be phased out for both corporate and non corporate taxpayers.
- (b) The provisions having a sunset date will not be modified to advance the sunset date. Similarly the sunset dates provided in the Act will not be extended.
- (c) In case of tax incentives with no terminal date, a sunset date of 31.3.2017 will be provided either for commencement of the activity or for claim of benefit depending upon the structure of the relevant provisions of the Act.
- (d) There will be no weighted deduction with effect from 01.04.2017.

Based on the above guiding principles and taking into account the response of the stakeholders on the proposed phasing out plan, the following incentives under the Act are proposed to be phased out in the manner as tabulated below in Table 1 and Table 2:

TABLE 1 : PROPOSED PHASE OUT PLAN OF INCENTIVES (PROFIT LINKED DEDUCTIONS/WEIGHTED DEDUCTION) AVAILABLE UNDER THE ACT.

Sl. No	Section/	Incentive currently available in the Act	Proposed phase out measures/ Amendment
1	10AA- Special provision in respect of newly established units in Special economic zones (SEZ).	Profit linked deductions for units in SEZ for profit derived from export of articles or things or services	No deduction shall be available to units commencing manufacture or production of article or thing or start providing services on or after 1st day April,2020. (from previous year 2020-21 onwards)
2	35AC-Expenditure on eligible projects or schemes.	Deduction for expenditure incurred by way of payment of any sum to a public sector company or a local authority or to an approved association or institution, etc. on certain eligible social development project or a scheme.	No deduction shall be available with effect from 1.4.2017 (i.e from previous year 2017-18 and subsequent years).
3	35CCD-Expenditure on skill development project.	Weighted deduction of 150 per cent on any expenditure incurred (not being expenditure in the nature of cost of any land or building) on any notified skill development project by a company.	Deduction shall be restricted to 100 per cent from 01.04.2020 (i.e., from previous year 2020-21 onwards).
4	Section 80IA; 80IAB, and 80IB - Deduction in respect of profits derive from a) development, operation and maintenance of an infrastructure facility (80-IA) (b) development of special economic zone (80-IAB) (c) production of mineral oil and natural gas [80-IB(9)]	100 per cent profit linked deductions for specified period on eligible business carried on by industrial undertakings or enterprises referred in section 80IA; 80IAB, and 80IB.	No deduction shall be available if the specified activity commences on or after 1st day April 2017. (i.e., from previous year 2017-18 and subsequent years).

These amendments mentioned in table 1 will take effect from 1st April 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent years.

TABLE 2 : PROPOSED PHASE OUT PLAN OF INCENTIVES (ACCELERATED DEPRECIATION/WEIGHTED DEDUCTION) AVAILABLE UNDER THE ACT.

Sl. No	Section/	Incentive currently available in the Act	Proposed phase out measures/ Amendment
1	32 read with rule 5 of Income-tax Rules, 1962- Accelerated Depreciation.	Accelerated depreciation is provided to certain Industrial sectors in order to give impetus for investment. The depreciation under the Income-tax Act is available up to 100% in respect of certain block of assets.	To amend the new Appendix IA read with rule 5 of Income-tax Rules, 1962 to provide that highest rate of depreciation under the Income-tax Act shall be restricted to 40% w.e.f 01.4.2017. (i.e., from previous year 2017-18 and subsequent years). The new rate is proposed to be made applicable to all the assets (whether old or new) falling in the relevant block of assets.
2	35(1)(ii)- Expenditure on scientific research.	Weighted deduction from the business income to the extent of 175 per cent of any sum paid to an approved scientific research association which has the object of undertaking scientific research. Similar deduction is also available if a sum is paid to an approved university, college or other institution and if such sum is used for scientific research.	Weighted deduction shall be restricted to 150 per cent from 01.04.2017 to 31.03.2020 (i.e., from previous year 2017-18 to previous year 2019-20) and deduction shall be restricted to 100 per cent from 01.04.2020 (i.e., from previous year 2020-21 onwards).
3	35(1)(iia)- Expenditure on scientific research.	Weighted deduction from the business income to the extent of 125 per cent of any sum paid as contribution to an approved scientific research company.	Deduction shall be restricted to 100 per cent with effect from 01.04.2017 (i.e., from previous year 2017-18 and subsequent years).

Sl. No	Section/	Incentive currently available in the Act	Proposed phase out measures/ Amendment
4	35(1)(iii)- Expenditure on scientific research.	Weighted deduction from the business income to the extent of 125 per cent of contribution to an approved research association or university or college or other institution to be used for research in social science or statistical research.	Deduction shall be restricted to 100 per cent with effect from 01.04.2017 (i.e., from previous year 2017-18 and subsequent years).
5	35(2AA)- Expenditure on scientific research.	Weighted deduction from the business income to the extent of 200 per cent of any sum paid to a National Laboratory or a university or an Indian Institute of Technology or a specified person for the purpose of approved scientific research programme.	Weighted deduction shall be restricted to 150 per cent with effect from 01.04.2017 to 31.03.2020 (i.e., from previous year 2017-18 to previous year 2019-20). Deduction shall be restricted to 100 per cent from 01.04.2020 (i.e., from previous year 2020-21 onwards).
6	35(2AB)- Expenditure on scientific research.	Weighted deduction of 200 per cent of the expenditure (not being expenditure in the nature of cost of any land or building) incurred by a company, engaged in the business of biotechnology or in the business of manufacture or production of any article or thing except some items appearing in the negative list specified in Schedule-XI, on scientific research on approved in-house research and development facility.	Weighted deduction shall be restricted to 150 per cent from 01.04.2017 to 31.03.2020 (i.e., from previous year 2017-18 to previous year 2019-20). Deduction shall be restricted to 100 per cent from 01.04.2020 (i.e., from previous year 2020-21 onwards).

Sl. No	Section/	Incentive currently available in the Act	Proposed phase out measures/ Amendment
7	35AD- Deduction in respect of specified business.	In case of a cold chain facility, warehousing facility for storage of agricultural produce, an affordable housing project, production of fertilizer and hospital weighted deduction of 150 per cent of capital expenditure (other than expenditure on land, goodwill and financial assets) is allowed.	In case of a cold chain facility, warehousing facility for storage of agricultural produce, hospital, an affordable housing project, production of fertilizer, deduction shall be restricted to 100 per cent of capital expenditure w.e.f. 01.4.2017 (i.e., from previous year 2017-18 onwards).
8	35CCC- Expenditure on notified agricultural extension project.	Weighted deduction of 150 per cent of expenditure incurred on notified agricultural extension project.	Deduction shall be restricted to 100 per cent from 1.4.2017 (i.e from previous year 2017-18 onwards).

These amendments mentioned in table 2 will take effect from 1st April 2018 and will, accordingly, apply in relation to the assessment year 2018-19 and subsequent years.

PHASING OUT DEDUCTIONS AND INCENTIVES

- To operationalize the above object and nudge the tax payers out of the remaining incentives/ deductions , lower rates of tax introduced for different classes of tax payers u/s 115BA 25% for manufacturing domestic companies(FA 2016), u/s 115BAA 20% for certain domestic companies (FA 2019), u/s 115BAB 15% for new manufacturing domestic companies (FA 2019), u/s 115 BAC reduced slab rates for individuals and HUFs (FA 2020) , u/s 115BAD 22% for certain resident cooperative societies (FA 2020) . The basic conditions in all these sections that the taxpayer should not claim deductions and incentives, except normal depreciation.

MANDATORY PENALTIES

- Post demonetization and IDS 2016 penalties on undisclosed income have been made more stringent.
- New system of penalty under two categories- under reporting and misreporting – introduced by FA 2016 vide Section 270A. The calculation of under reporting of income is clearly defined by a formula and essentially includes all additions/disallowances made in the assessment. Similarly misreporting is also clearly and widely defined. The penalty for mis reporting is 200% of the tax payable. These penalties are fixed and mandatory and the discretionary powers are removed.
- In the case of income assessed u/s 68,69 ,69A, 69B,69C and 69 D higher rate of tax of 60% is prescribed u/s 115BBE. Further they shall be liable to penalty of 10%. These are mandatory and the discretionary powers are removed.
- In search cases, a higher rate of penalty @ 60% of the undisclosed income will be levied. This will be in addition to the tax u/s 115BBE wherever applicable. These are mandatory and the discretionary powers are removed.
- Immunity from penalty u/s 270A and prosecution u/s 276C/ 276CC are provided if the tax and interest as per the assessment order is paid within 30 days and no appeal is filed against the assessment.

ASSESSMENT MECHANISM

- Legal framework for automation of various processes and paperless assessment introduced by FA 2016.
- Definition of hearing as per Section 2(23 C) by FA 2016 “includes communication of data and documents through electronic mode”.
- Progressively the assessment mechanism transitioned from face to face to e- assessment to finally faceless assessment.
- The Prime Minister in August 2020 announced three key structural tax reforms under the ‘Transparent Taxation - Honoring the Honest’ - faceless assessment, faceless appeal and taxpayers’ charter to reduce tax disputes.
- Faceless assessment, Faceless appeal and Faceless penalty implemented through National Faceless Centers.

ASSESSMENT MECHANISM

- The features of the Faceless Assessment Scheme are: (Courtesy taxguru.com)
 - Data driven selection of cases for scrutiny using data analytics and Artificial Intelligence.
 - Abolition of territorial jurisdiction. Return of a taxpayer belonging to one city would be scrutinized anonymously by AOs based in another city
 - Automated random allocation of cases to Assessment Units through computer.
 - Centralized issue of notices using unique Document Identification Number (DIN) through electronic modes.
 - No human interface and no need to visit the Income Tax Office.
 - All Response to be submitted electronically.
 - Team-based assessments and team-based review.
 - Functional Specialization for specific parts of assessment by different specialized units.
 - Only a single point of faceless contact between the taxpayer and the Department.
 - Adverse Draft Assessment Order shall be provided to taxpayer for response before finalization of the assessment order.
 - Dynamic Jurisdiction : Draft assessment order in one city, review in another city and finalisation in a third city.
 - Ease of tax compliance through uniformity in application of law.

ASSESSMENT MECHANISM

- Heart of the faceless scheme is use of technology – Data Analytics and AI- ,efficient use of internal resources (estimated 50% reduction in human resources of the department), Uniformity of application of law and elimination of discretion .
- Time limit for completion of assessment rationalised continuously from 2016 and after the amendments made by FA 2021 assessment is to be completed within 21 months from the end of the previous year (9 months from the end of the assessment year)

ASSESSMENT MECHANISM

Reopening of Assessment

- Reopening of assessments completely revamped and restricted to cases of risk notified by the Board. Time limit for reopening restricted to 3 years from the end of the assessment year, except in cases where undisclosed assets are found.
- Due to advancement of technology, the department is now collecting all relevant information related to transactions of taxpayers from third parties under section 285BA of the Act (statement of financial transaction or reportable account). Similarly, information is also received from other law enforcement agencies. This information is also shared with the taxpayer through Annual Information Statement under section 285BB of the Act. Department uses this information to verify the information declared by a taxpayer in the return and to detect non-filers or or those who have not disclosed the correct amount of total income. Therefore, assessment or reassessment or re-computation of income escaping assessment, to a large extent, is information-driven.
- In view of above, there is a need to completely reform the system of assessment or reassessment or re-computation of income escaping assessment and the assessment of search related cases. The Bill proposes a completely new procedure of assessment of such cases. It is expected that the new system would result in less litigation and would provide ease of doing business to taxpayers as there is a reduction in time limit by which a notice for assessment or reassessment or re-computation can be issued.

ASSESSMENT MECHANISM

- It is proposed to provide that any information which has been flagged in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board shall be considered as information which suggests that the income chargeable to tax has escaped assessment. The flagging would largely be done by the computer-based system.
- Further, a final objection raised by the Comptroller and Auditor General of India to the effect that the assessment in the case of the assessee for the relevant assessment year has not been in accordance with the provisions of the Act shall also be considered as information which suggests that the income chargeable to tax has escaped assessment.

GOVERNANCE PROCESSES

THE TAXATION AND OTHER LAWS (RELAXATION AND AMENDMENT OF CERTAIN PROVISIONS) ACT, 2020 ALSO ENABLED EXTENSION OF THE FACELESS PROCEDURE TO ALL OTHER ASPECTS OF GOVERNANCE AS BELOW :

Reference to the Transfer Pricing Officer (Section 92CA(8))	Faceless order-giving effect (Section 264B)
Faceless collection and recovery of tax (Section 231)	Reference to Dispute Resolution panel (Section 144C(14B))
Faceless jurisdiction of Income-tax authorities (Section 130)	Prosecution and compounding of offences (Section 279(4))
Filing of Departmental Appeal to Income-tax Appellate Tribunal (Section 253(8))	Faceless reassessment (Section 151A)
Faceless collection of information (Section 135A)	Faceless approval or registration (Section 293D)
Faceless revision of orders (Section 264A)	Faceless rectification (Section 157A)
Faceless inquiry or valuation (Section 142B)	

GOVERNANCE PROCESSES

For the purpose of implementing the above faceless governance processes, amendments in identical language capturing the principles of the faceless regime have been added in the respective sections as given in the earlier table. For example, the relevant amendment for faceless TP proceedings are as below :

Reference to Transfer Pricing Officer 92CA..

(8) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of determination of the arm's length price under sub-section (3), so as to impart greater efficiency, transparency and accountability by-

(a) eliminating the interface between the Transfer Pricing Officer and the assessee or any other person to the extent technologically feasible;

(b) optimizing utilization of the resources through economies of scale and functional specialization;

(c) introducing a team-based determination of arm's length price with dynamic jurisdiction.

(9) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (8), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March 2022.

GOVERNANCE PROCESSES

- Faceless ITAT in a jurisdiction less manner enabled by FA 2021
- Existing mechanisms of Advance Ruling and Settlement Commission abolished.
- Dispute Resolution Committee, Board for Advance Ruling and Interim Board for settlement of cases consisting of senior officers of the department constituted.
- All these new committees to work on the basis of Schemes to be framed by Government.

GOVERNANCE PROCESSES

Constitution of Dispute Resolution Committee for small and medium taxpayers :

The Central Government has consciously adopted a policy to make the processes under the Act, which require interface with the taxpayer, fully faceless. In this backdrop, new schemes for faceless assessment, for faceless appeal at the level of Commissioner (Appeals) and for faceless imposition of penalty have already been made operational. Further, the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 has empowered the Central Government to introduce similar schemes for other functions being performed by the income-tax authorities.

It is expected that with these reforms, there would be lesser number of disputes. However, some disputes would still be there. Government has always been striving to reduce disputes and provide tax certainty. Vivad se Vishwas scheme was launched last year to settle pending disputes. Indications are there that the scheme has been a great success. While pending disputes are being resolved or adjudicated, it is important that in future there is less number of disputes from fresh assessments. Hence, in order to provide early tax certainty to small and medium taxpayers, it is proposed to introduce a new scheme for preventing new disputes and settling the issue at the initial stage.

GOVERNANCE PROCESSES

The new scheme is proposed to be incorporated in a new section 245MA and has the following features :

- (i) The Central Government shall constitute one or more Dispute Resolution Committee (DRC).
- (ii) This committee shall resolve disputes of such persons or class of person which shall be specified by the Board. The assessee would have an option to opt for or not opt for the dispute resolution through the DRC.
- (iii) Only those disputes where the returned income is fifty lakh rupee or less (if there is a return) and the aggregate amount of variation proposed in specified order is ten lakh rupees or less shall be eligible to be considered by the DRC.
- (iv) If the specified order is based on a search initiated under section 132 or requisition made under section 132A or a survey initiated under 133A or information received under an agreement referred to in section 90 or section 90A, of the Act, such specified order shall not be eligible for being considered by the DRC.

GOVERNANCE PROCESSES

(v) Assessee would not be eligible for benefit of this provision if there is detention, prosecution or conviction under various laws as specified in the proposed section.

(vi) Board will prescribe some other conditions in due course which would also need to be satisfied for being eligible under this provision.

(vii) The DRC, subject to such conditions as may be prescribed, shall have the powers to reduce or waive any penalty imposable under this Act or grant immunity from prosecution for any offence under this Act in case of a person whose dispute is resolved under this provision.

(viii) The Central Government has also been empowered to make a scheme by notification in the Official Gazette for the purpose of dispute resolution under this provision. The scheme shall impart greater efficiency, transparency and accountability by eliminating interface to the extent technologically feasible, by optimizing utilization of resources and introducing dynamic jurisdiction. The Central Government may, for the purposes of giving effect to the scheme, by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification. However, no such direction shall be issued after the 31st day of March 2023. Every such notification shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

DATA COLLECTION

- Data or Information will be collected in a non -intrusive manner by the following mechanisms :
 - Drive towards cash less (less cash) transaction eco system by restricting/prohibiting cash transactions and incentivizing digital transactions. (Sec 40A(3), 43B, 44AD, 269T, 269 SU, Rule 6 ABBA etc
 - Increase the sweep of TDS such as TDS on cash withdrawal (194N) , TDS on e commerce transactions 194O, TDS of 0.1% on purchases .
 - Increased scope of TCS provisions.
 - Statement of Specified Financial Transactions (Form 61A)

DATA COLLECTION

- “Project Insight” - Income-tax Department has initiated Project Insight to focus on three goals, namely (i) to promote voluntary compliance and deter noncompliance; (ii) to impart confidence that all eligible persons pay appropriate tax; and (iii) to promote fair and judicious tax administration.

Under this project an integrated data warehousing and business intelligence platform is being rolled out in a phased manner. The project also operationalizes two new centers namely Income Tax Transaction Analysis Centre (INTRAC) and Compliance Management Centralized Processing Centre (CMCPC).

The Income Tax Transaction Analysis Centre (INTRAC) leverages data analytics in tax administration and performs tasks related to data integration, data processing, data quality monitoring, data warehousing, master data management, data analytics, **web/text mining**, alert generation, compliance management, enterprise reporting and research support.

The Compliance Management Centralized Processing Centre (CMCPC) uses campaign management approach (consisting of emails, SMS, reminders, outbound calls, letters) to support voluntary compliance and resolution of compliance issues. A dedicated compliance portal would be used to capture response on compliance issues in a structured manner for effective compliance monitoring and evaluation.

WAY FORWARD.....

- Understand and align with Taxonomy and Technology
- The Roles :
 - The Process Manager
 - The Catalyst
 - The Deep Domain Expert
- Competition from outside and consolidation on functional lines

The Success Mantra.....



.....don't remain a Caterpillar, Metamorphosize into a
THANK YOU Butterfly