

Institute of Chartered Accountants of India

Presentation on practical issues relating to tax
audit u/s 44AB of Income Tax Act 1961

Clause by clause of 3CD Report

Sachin Sinha

Chartered Accountant

Professional skill and expertise

- While giving the tax audit report the tax auditor should use their professional skill and expertise and apply such audit tests as the circumstances of the case may require, considering the contents of the audit report.
- The tax Auditor should conduct the audit by applying the generally accepted auditing procedures which are applicable for any other audit.

Compliance to be ensured

- Where the auditor issues Form No. 3CB, as the audit of financial statements is being done u/s 44AB of the Income Tax Act, 1961, the auditor should in relation to audit of the financial statements ensure compliance of:
- Accounting Standards issued by ICAI
- Standards on Auditing
- Framework for presentation of Financial Statements issued by ICAI

Commonly found Errors

- Many of the Tax Audit reports do not have the paragraphs relating to Assessee's responsibility and Tax Auditor's responsibility as required by the Guidance Note in respect of SA 700.
- Some of the tax audit reports contained a reference about the attached physically signed tax audit reports which mention these Paragraphs thereby complying with the requirement of SA 700. However, as per the Guidance Note on Tax Audit the same are specifically required to be mentioned / reported under clause (3) of Form No.3CA or Clause (5) of Form No.3CB, as the case may be.

Applicable sections

Sec 44AB. Every Person –

(a) Carrying on business shall, if his total sales, turnover or gross receipts, as the case may be, in business exceeds Rs. 1 Cr in any previous year.

‘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 5% 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 5% of the said payment,

this clause shall have effect as if for the words “1 Cr”, the words “10 Cr” had been substituted:

Case study - 1

- Sale of ABC Pvt Ltd during FY 2024-25 is Rs, 90 lakh and GST on such sales is Rs. 16.20 lakh. The total turnover including GST is RS. 106.20 lakh.
- Whether audit is applicable in this case or not?

Sales, turnover or gross receipts

- Turnover under Companies Act:

Sec 2(91) turnover means the aggregate value of the realisation of amount made from the sale, supply or distribution of goods or on account of services rendered, or both, by the company during the financial year.

- Revenue under ICDS:

Revenue is the gross inflow of cash, receivables, or other consideration arising in the course of ordinary activities of a person from the sale of goods, from the rendering of services or both.....

Sales, turnover or gross receipts

- The “Guidance Note on Terms Used in Financial Statements” published by the Institute, the expression “Sales Turnover”
- *“The aggregate amount for which sales are effected or services rendered by an enterprise. The term ‘gross turnover’ and ‘net turnover’ (or ‘gross sales’ and ‘net sales’) are sometimes used to distinguish the sales aggregate before and after deduction of returns and trade discounts”.*

Speculative transaction

- A speculative transaction means a transaction in which a contract for the purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips.
- The aggregate of both positive and negative differences is to be considered as the turnover of such transactions for determining the liability to audit vide section 44AB.

Delivery based transactions

- Where the transaction for the purchase or sale of any commodity including stocks and shares is delivery based whether intended or by default, the total value of the sales is to be considered as turnover.

B.K. Jhala & Associates, [1999] 69 ITD 141 (PUNE)

- The words ‘Sales’, ‘Turnover’, ‘Gross receipts’ are commercial terms and they should be construed in the commercial sense and in accordance with the normal rules of accountancy.
- Accordingly, ‘Turnover’ and ‘Gross receipts’ mean gross in-flow of cash receivables and other considerations arising in the course of ordinary activities of an enterprise from the sale of goods or from the rendering of services to the buyer or client.

Mangal Dayak Chit Fund (P.) Ltd, [2005] 92 ITD 258 (Hyderabad)

- It is well settled that the term sales, turnover and gross receipts have to be interpreted, with reference to the items which go into profit and loss account of a concern and that this has to be ascertained, based on the method of accounting regularly employed by the assessee.
- Items of receipts which are capital in nature do not go into the profit and loss account and are not turnover

Growmore Exports Ltd.

[2001] 78 ITD 95 (Mum. - Trib.)

- Neither the term 'goods' nor 'turnover' is defined in the Act. In general, turnover is meant to be the sale proceeds of the goods sold. In other words, commercially it would mean the amount of money turned over or drawn in a business, in a given time.
- Since the term 'turnover' is not specifically defined in the Act, nor specifically for the purpose of section 44AB, its meaning should be taken as commercially and commonly understood.

Revenue recognition – construction Contracts

- POCM to be followed (even for service contract)
- Retention money to be included in revenue and cannot be excluded.
- Incidental income like interest income cannot be deducted from borrowing cost.
- **AMENDMENT TO THE ACT**
- **43CB.** *(1) The profits and gains arising from a construction contract or a contract for providing services shall be determined on the basis of percentage of completion method in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145*

Case Study - 2

- Total sales during the FY 2024-25 of M/s ABC Pvt Ltd. is Rs. 9 Cr. and Foreign Exchange Fluctuation gain is Rs. 2 cr. Which is shown in P&L A/c as other income. Whether, M/s ABC Pvt Ltd is liable for tax audit?
- Whether, your answer would be different if M/s ABC Pvt Ltd is a SEZ unit and claiming exemption u/s 10AA.
- What if, during the same FY, the Foreign exchange loss is 1.5 Cr. which is debited to the P&L A/c.

Case Study - 3

- Total sales during the FY 2024-25 of M/s ABC Pvt Ltd. is Rs. 9 Cr. and loss of stock due to fire is Rs. 2 cr. Insurance company accepted the claim and compensated by paying 1.50 cr. Which is shown in P&L A/c as other income. Whether, M/s ABC Pvt Ltd is liable for tax audit?
- Whether, your answer would be different if there is loss of factory building of Rs. 5.0 Cr out of which Insurance company paid 3.0 Cr.

Aggregate of all amount

- Since the proviso clause (a) consists the term “aggregate of all amounts received including amount received for sales”, it means received from the previous years receivables shall also be counted while calculating the aggregate of all amount received.
- Whether loan receipt will also be included in this amount?
- Whether capital receipt will also be included in this amount?

Aggregate of all amount

- Similarly, the proviso clause (b) consists the term “aggregate of all payments made including amounts incurred for expenditure ”, it means amount paid towards the previous years payables shall also be counted while calculating the aggregate of all payment made.
- Whether repayment of loan will also be included in this payment?
- Whether expenses incurred towards purchase of capital assets or making investment will also be included in this payment.

Case study - 4

Turnover of Mr. A in the FY 2024-25 is Rs. 7 Cr. out of which cash receipts is Rs. 70 Lakh and receivable is 1 Cr. He also get a loan of Rs. 10 Cr from bank.

Whether Mr. A is eligible for proviso clause of sec 44AB(a)?

Whether your answer would be different if the sales amount is Rs. 12 Cr and the receivable is Rs. 3 Cr. considering the other facts remain same.

What would be the position if the sales during the year is 9 Cr, and he also received Rs. 2 Cr. from the preceding years receivable. Considering the other facts remain same.

Case study -5

Turnover of Mr. A in the FY 2024-25 is Rs. 7 Cr. out of which cash receipts is Rs. 32 Lakh and receivable is 1 Cr. Out of receipt of Rs. 6 Cr, one of the debtors of Rs. 1 Cr is creditor of Rs. 50 Lakh of Mr. A and such account were netted off and Rs. 50 Lakh paid to Mr. A by cheque as the final balance amount.

Whether Mr. A is eligible for proviso clause of sec 44AB(a)?

Case study - 6

- The situation may also arise in case of advance received in the preceding year and relating to such advance, sales is appearing in the previous year.
- As per the wording of the proviso clause “all amounts received”, it includes advance money received which is related to sales of the subsequent years should also be counted for the test of 5% in the year of receipt.

Applicable sections

Sec 44AB. Every Person –

(b) Carrying on profession shall, if his gross receipts in profession exceeds 50 lakh rupees in any previous year.

(c) Carrying on the business shall, if the profit and gain from the business are deemed to be the profits and gain of such person u/s 44AE, 44BB or 44BBB as the case may be, and has claimed his income to be lower than the profits or gain of his business in the previous year.

Sl. No	Section	Particulars	Deemed Income
1	44AE	Business of Plying, hiring or leasing goods carriages.	HV – Rs1000 PT, PM, PV Other than HV – 7500 PM, PV
2	44BB	Business of exploration, etc of mineral oils.	10% of the aggregate amount
3	44BBB	Business of civil construction etc in certain turnkey power projects	10% of the amount paid or payable
4	44ADA	Assessee is engaged in profession referred to in Sec 44AA(1)	50% of the total gross receipt

If the assessee declares income less than the prescribed percentage, 44AB is applicable

Applicable sections

Sec 44AB. Every Person –

(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 u/s 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 the PY.

(e) carrying on the business shall, if the provisions of s/s (4) of sec 44AD are applicable in his case and his income exceeds the maximum amount which is not chargeable to income-tax in the PY.

Sec 44AD Vs. 44AB

- Provided that sec 44AB shall not apply to the person, who declares profit and gains for the previous year in accordance with the provisions of sec 44AD(1) and his total sales, TO or GR, in the business does not exceed two crore rupees in the PY.
- What if the profit is not declared in accordance with the provision of Sec 44AD(1).

Sec 44AD Vs. 44AB

- Prior to 01.04.2017, sec 44AB of the Act, provides that every person carrying on the business is required to get his accounts audited if the total sales, TO or GR in the PY exceeds Rs. One crore. The threshold limit for applicability sec 44AD was increased to two crore rupees from one crore rupees with effect from 01.04.2017 relevant to AY 2017-18.
- Further, vide press release dated 20.06.2016, it was clarified that if an eligible person opts for presumptive taxation as per sec 44AD(1) of the Act, he shall not be required to get his accounts audited if the total turnover or gross receipts of the relevant previous year does not exceed two crore rupees.
- Further, sec 44AB amended to exclude the eligible person, who declares profits for the PY in accordance with the provisions of sec 44AD(1) and his total sales, TO or GR, in business does not exceed Rs. two crore in such PY, from requirement of audit of books of accounts under sec 44AB.

Sec 44AD Vs. 44AB

As per Sec 44AD(4), where an eligible assessee declares profit for any PY in accordance with the provisions of Sec 44AD, and he declares profit for any of the 5 AY relevant to the PY succeeding such PY not in accordance with the provisions of sec 44AD(1), he shall not be eligible to claim the benefit of the provisions of Sec 44AD for 5 AY subsequent to the AY relevant to the PY in which the profit has been declared in accordance with the provisions of sec 44AD(1).

44AB (C) vs. 44AB, Proviso -1 vs. 44AB, Proviso -2

44AB (C)	44AB, Proviso -1	44AB, Proviso -2
<p><u>Carrying on the business</u> shall, if the profit and gains from the business are deemed to be the profit and gains of such person u/s 44AE, 44BB or 44BBB and he has claimed his income to be lower than the profits or gain so deemed to be the profits and gains of his business.</p>	<p>This section shall not apply to the person, who <u>declares profits and gains for the PY in accordance with the provisions of Sec 44AD(1) and his total sales, TO or GR does not exceed 2 Cr in such PY.</u></p>	<p>This section shall not apply to the person, who <u>derives income of the nature referred to in Sec 44BBA.</u></p>

Amendment in 2016

44AB (Finance Act 2015)

- Clause (d) – carrying on the business shall, if the profit from the business are deemed to the profit u/s 44AD and he has claimed such income to be lower than the profit so deemed to be the profit of his business.

44AB (Finance Act 2016)

- Clause (e) – carrying on the business shall, if the provisions of Sec 44AD(4) are applicable in his case and his income exceeds the maximum amount which is not chargeable to tax.

Specified date

- 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 :
- "specified date", in relation to the accounts of the assessee of the previous year relevant to an assessment year, means date one month prior to the due date for furnishing the return of income u/s 139(1).

Case Study - 7

- Turnover as per books of accounts of M/s BLG is 9Cr. Search took place and additional sales of 2 Cr. found as a result of search which was not recorded in the books of accounts regularly maintained in the regular course of business.
- The AO is invoking penalty on the ground the assessee failed to get his accounts audited u/s 44AB.

“Accounts” – Sales found in search

- Delhi ITAT in the case of *Brij Lal Goyal (2004) 88 ITD 413* held that the word accounts have not been defined. Therefore, in view of Sec 34 of the Indian Evidence Act, the term accounts should be understood as accounts which are maintained in the regular course of business alone should be considered for computing the limit.

Case study-8

- An Individual assessee carrying on trading business of small machinery which is used for the manufacturing company. The total turnover of such assessee from such business is Rs. 8 Cr. He also satisfies the twin conditions of the proviso clause. It means he is out of sec 44AB and he is not required to get his accounts audited.
- Since the books of the assessee is not required to be audited, whether the department will accept the profit declared by the assessee.
- If the answer to the above question is affirmative, can it be said that return has been filed under presumption.
- If it is under presumption, at what rate the profit should be declared.

Case study -9

- The question may arise that is there any timeline to receive the money or making the payment.
- For example: if an individual assessee sold some good during the year and the payment not received on or before 31st March, whether, that sales to be taken while calculating 5%.
- What if, he receives such payment after 31st March but before filing of return u/s 139(1).

Case study - 10

- First year of business 2024-25
- Total Turnover 150 Lakhs
- Profit declared More than 8%/6%
- Whether assessee can apply 44AD
- What if assessee declares profit less than 8%/6%?
- Whether your answer would be different if this is not the first year of business of the assessee?
- Whether your answer would be different if the TO for year 2024-25 is only 95 Lakhs?

Case study - 11

- Previous year 2022-23 profit declared as per 44AD and filed return of presumptive taxation.
- Previous year 2023-24 turnover was 2.5 crore and tax audit was done u/s 44AB and return filed accordingly.
- Previous year 2024-25, turnover is less than 1 crore and assessee wants to declare profit as per 44AD.

Case study - 12

- Previous year 2022-23 profit declared as per 44AD and filed return of presumptive taxation.
- Previous year 2023-24 turnover was 1.5 crore and assessee opted out from 44AD and went for tax audit u/s 44AB and return filed accordingly.
- Previous year 2024-25, turnover is less than 1 crore and assessee wants to declare profit as per 44AD.
- What if all the receipts and payments during the year are through banking channel.?

Case study - 13

- An individual assessee carrying on business of readymade garments, he is authorised dealer of “ultratech” cement and having “Indian oil” petrol pump. The turnover from each business is Rs 75 lakhs.
- Whether the tax audit is applicable on the assessee?
- What if the revenue from petrol pump exceeds 2 crore and from other business it is 75 lakhs each.
- What if the dealership of “ultratech” cement is on commission basis.

Form No. 3CA/3CB- Rule 6G

- **Form 3CA**
- In case of a person carrying business or profession whose accounts are required to be audited under any other law.
- Name of the statutory auditor, if not same as tax auditor

Form No. 3CA/3CB- Rule 6G

- **Form 3CB**
- Person other than those referred in Form 3CA.
- Person whose accounts are required to be audited under other law but accounting year is different from PY .
[Circular : No. 561, dated 22-5-1990]
- Separate place for discrepancies, comments, observations on the financial statements
- True and Fair view of B/s and P/L
- No of branches to be mentioned

Case study - 14

- M/s. ABC Pvt Ltd incorporated on 25th January 2025 and the TO upto 31.03.2025 is Rs. 12 Cr. Company did not get its account audited for the FY 2024-25 and appointed you as tax auditor because 44AB is applicable in this case.
- Which Form is applicable in this case Form 3CA or Form 3CB.

Form 3CA / 3CB Qualifications

- The tax auditor should state this qualification in the audit report so that the same becomes a comprehensive report and the user of the audited statement of particulars can realize the impact of such qualifications.
- While reporting on clause (a) of paragraph 3 of Form No. 3CB the tax auditor should report only such of those observations/comments/discrepancies/ inconsistencies which are of qualificatory nature which affect his reporting about obtaining all the information and explanations which were necessary for the purposes of the audit, about the keeping of proper books of account by the head office and branches of the assessee and about the true and fair view of the financial statements.

Form 3CA / 3CB Qualifications

- Proper books of account have not been maintained by the assessee.
- 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.
- Documents necessary to verify the reportable transaction were not made available.
- Proper Stock records are not maintained by the assessee.
- Valuation of closing stock is not possible.
- Yield/percentage of wastage is not ascertainable.
- Records necessary to verify personal nature of expenses not maintained by assessee.
- TDS returns could not be verified with the books of account.
- Records produced for verification of payments through account payee check were not sufficient.

Form 3CA / 3CB Qualifications

- Amount of expenses related to exempt income u/s 14A of Income-tax Act, 1961 could not be ascertained.
- Creditors under Micro, Small and Medium Enterprises Development Act, 2006 are not ascertainable.
- Prior period expenses are not ascertainable from books of account.
- Fair market value of shares u/s 56 (2) (viiia)/(viib) is ascertainable.
- Reports of audit carried by Excise/Service tax Department were not made available.
- GP Ratio is not ascertainable from the financial statements prepared by the assessee.

Basics of Form 3CD

- Particulars are True and Correct
- Rely upon the judicial pronouncements while taking any particular view
- Suitable cross reference in case of particular item of income / expenditure is covered in more than one of the specified clauses
- In case of difference of opinion between auditor & assessee, both view points & relevant information to be stated
- Date of Audit Report and Date of Return Filing

Case study -15

- A doctor is in practice and he is selling medicine too.
- His income from fees is Rs. 45 Lakhs and receipts from sale of medicines is Rs. 56 Lakhs. Considering the total receipt increases 1 crore rupees, he approached you for advise regarding tax audit and posed the following questions before you:
- is his entire revenue to be subjected to Sec 44ADA offering 50% as taxable income?
- Whether he needs to maintain separate set of books of accounts for practice and sale of medicine.
- Can he avail 44AD and 44ADA for the respective source of Income.
- Would your answer be different if the income from medical fees is 56 lakhs and sale of medicine is 45 lakhs.

Form 3CD – Clause 1 - 8

Clause No.	Name
1	Name of the assessee
2	Address
3	PAN
4	Whether the assessee is liable to pay indirect tax. If yes, furnish the registration no./ identification no. allotted for the same
5	Status
6	Previous year
7	Assessment year
8	Relevant clause of the section 44AB under which audit has been conducted
8A	Opted for taxation u/s 115BA/115BAA/115BAB/115BAC/115BAD/115BAE

Address

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

Whether the assessee is liable to pay indirect tax.

- 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** “*written representation*” SA 580, he is required to obtain a copy of the registration certificate clearly mentioning the registration number under that relevant law.
- *Even if the assessee is liable for GST on RCM, the answer should be affirmative.*

Clause of the sec 44AB u/w audit has been conducted

- The requirement of this clause of Form No. 3CD is to report the relevant clause of section 44AB under which the audit has been conducted.
- Turnover of M/s ABC Ltd is 100 Cr. in the FY 2024-25.
- As a tax auditor, which clause I should select while filing form 3CD.

Form 3CD - Clause No. 9

- This applies to Firm, Association of Persons (AOPs) and LLPs
- “Profit Sharing Ratio” would include Loss sharing ratio also as “Loss” is nothing but negative profit.
- All the changes occurring during the entire previous year must be stated.
- Change in remuneration not to be reported.
- Sec 9B and Sec 45(4) to be tested separately while reporting under this point.

Documentation

- Supplementary / Admission / Retirement deeds
- Filings with ROF / ROC (wherever applicable)
- Minutes of meetings recording such changes

Form 3CD - Clause No .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.

Form 3CD - Clause No. 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 Address at which the books of accounts are kept. *(If 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.

Form 3CD - Clause No. 11

- **Prescribed Books - RULE 6F**
- Cash book
- Journal (if the accounts are kept on mercantile basis)
- Ledger
- Serial numbered carbon copies of the bills and receipts issued
- Original purchase bills/ payment vouchers.
- Daily case register in Form No. 3C (Medical Professional)
- Stock of drugs, medicines & other consumable accessories (Medical Professional)

Form 3CD - Clause No. 11

- For companies, no books of accounts have been specifically prescribed u/s 44AA and u/r 6F.
- For clause 11, “Whether books of account are prescribed u/s 44AA, **if yes**, list of books so prescribed.
- Whether your answer would be ‘YES’ or ‘NO’

Form 3CD - Clause No. 12

S. No.	Section/ Chapter/ Schedule	Business Covered
1	44AD	Presumptive basis – Business
2	44ADA	Presumptive basis – Profession
3	44AE	Transport business
4	44B	Shipping business of a non-resident
5	44BB	Business of exploration, etc., of mineral oils.
6	44BBA	Operation of aircraft by non-resident
7	44BBB	Civil construction etc. in certain turnkey power project by NR
8	44BBC	Operation of cruise ships
9	Chapter XII-G	Special provisions relating to income of shipping companies
9	First Schedule	Rules for Section 44- Insurance Business
10	Any other Section	Eg Section 44D and 115A(1)(b)

Clause-13:-Method of accounting employed during the previous year.

- Can different method of accounting employed for different business of the same assessee.
- Can the assessee change the method of accounting in the mid of the year.
- What if, there is no effect of such change, whether the reporting in this point is required.

Clause-13 :- Effect of ICDS

- Whether adjustment is required to be made in P&L A/c for ICDS.
- Report such change in absolute terms.
- **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)- ICDS** to be followed by all assesseees following mercantile system of accounting
Points to be taken care off –
- 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 method of accounting employed, the effect i.e. Increase or decrease in profits has to be stated.

Clause-14:-Method of valuation of closing stock employed in the P.Y etc.

- Whether valuation of inventory has to be done as per sec 145A, ICDS II or AS2.
- ICDS II prescribes inclusive method while AS 2 prescribes exclusive method.
- Inventory shall be adjusted to include the amount of any tax, duty, cess or fees.
- Method of valuation has to be reported for each item of inventories separately. Like raw materials, WIP, finished goods, maintenance supplies, consumables, loose tools.

Section 145A

- (i) the valuation of inventory shall be made at lower of actual cost or net realisable value computed as per ICDS.
- (ii) the valuation of purchase and sale of goods or services and of inventory shall be adjusted to include the amount of tax, duty, cess or fees actually paid or incurred by the assessee.

Clause-15:- Particulars of the capital asset converted into stock – in – trade.

- How the conversion value shall be determined when the capital assets is converted into stock in trade.
- Whether reporting is also required in respect of stock-in-trade converted into capital assets?
- *Sec 28(via) says, the FMV of inventory as on the date on which it is converted into, or treated as, a capital asset determined in the prescribed manner.*
- *How the FMV will be determined?*

Clause 16: Amount not credited to the PL



The item falling within the scope of sec 28



Drawback, refund of duty etc.



Escalation claim accepted during the previous year.



Any other item of income.



Capital receipt, if any.

Clause 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:

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

Form 3CD - Clause No. 17

- Whether reporting is required in case of sale of personal property also.
- Whether reporting is required in case of transfer of property situated outside India.
- While reporting, whether the auditor should also consider the safe harbor provisions.

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 form:-
 - (a) Description of asset/block of assets.
 - (b) Rate of depreciation.
 - (c) Actual cost or WDV, as the case may be.
 - (ca) Adjustment made to the written down value—
 - (i) under the proviso to 115BAA(3) (for A.Y. 2020-21 only).
 - (ii) under the first proviso to 115BAC(3) or the proviso to 115BAD(3) (for A.Y.2021-22 only).
 - (iii) under the second proviso to 115BAC(3) (for A.Y.2024-25 only).
 - (cb) Adjustment made to WDV of Intangible asset due to excluding value of goodwill of a business or profession.
 - (cc) Adjusted WDV.

Clause 18

- (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) WDV at the end of the year.

Clause 18

- Having regard to the nature of requirements prescribed, it may be necessary for the tax auditor to examine:
 - (a) Classification of the asset
 - (b) Classification thereof to a block
 - (c) The working of actual cost or written down value
 - (d) The date of acquisition and the date on which it is put to use
 - (e) The applicable rate of depreciation
 - (f) The additions / deductions and dates thereof
 - (g) Adjustments required – specified as well as on account of sale, etc.

Particulars of depreciation allowable as per IT Act.

- The details of addition/deletions reported in tax audit report shall be in line with the addition/deletions as disclosed in the financial statement.
- In case of addition or deletions, the date of purchase, date of put to use etc. should be filled up very carefully.

Depreciation, Cl. 18(ca), New Provision

- Adjustment made to the WDV:
- (i) under the proviso to sec 115BAA(3), for AY 2020-21 only.
- (ii) under the first proviso to sec 115BAC(3) or 115BAD(3), for AY 2021-22 only.
- (iii) under the second proviso to sec 115BAC(3), for AY 2024-25 only.

Clause 20 (a) and (b)

- (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):

Sl. No.	Nature of fund	Sum received from employees	Due date for payment	Actual amount paid	Actual date of payment to the concerned authorities.

CLAUSE – 20 (a):- Any sum paid to an employee as bonus or commission for services rendered, which is otherwise payable to him as profit or dividend.

- Whether this clause will be applicable for other than company also?
- Whether this clause is applicable to ex-employee also?
- Whether this clause is applicable if the sum is payable and not yet paid.

Clause-20(b):- Details of contributions received from employees for various funds u/s 36(1)(va)

- Whether the contribution received refers the actual receipt or mere passing the book entry is deemed to be contribution received?
- Under Clause 20(b), the requirement is only in respect of the disclosure of the amount and the tax auditor is not expected to express his opinion about its allowability or otherwise.
- The tax auditor should verify the employment/ contract details of the employees so as to ascertain the nature of payments.

Clause 21

- Please furnish the details of amounts debited to the profit and loss account, being in the nature of Capital, personal, advertisement expenditure etc.

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

Clause 21

Nature	Serial Number	Particulars	Amount
Expenditure for any purpose which is an offence or is prohibited by law or expenditure by way of penalty or fine for violation of any law (enacted in India or outside India).			
Expenditure by way of any other penalty or fine not covered above.			
Expenditure incurred to compound an offence under any law for the time being in force, in India or outside India.			
Expenditure incurred to provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guideline, as the case may be, for the time being in force, governing the conduct of such person.			
Expenditure incurred to settle proceedings initiated in relation to contravention under such law as notified by the Central Government in the Official Gazette in this behalf.			

Clause 21: New provision

- Expenditure for any purpose which is an offence or is prohibited by law or expenditure by way of penalty or fine or violation of any law (enacted in India or outside India)

Clause 21: New provision

- Expenditure incurred to compound an offence under any law for the time being in force, in India or outside India.

Clause 21: New provision

- Expenditure incurred to provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercise a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guideline, as the case may be, for the time being in force governing the conduct of such person.

Comparison of new and old provision

Prior to amendment by Notifications issued in March, 2024 and March, 2025	Post amendment vide Notifications issued in March, 2024 and March, 2025
Expenditure by way of penalty or fine for violation of any law for the time being in force.	Expenditure for any purpose which is an offence or is prohibited by law or expenditure by way of penalty or fine for violation of any law (enacted in India or outside India)
Expenditure by way of any other penalty or fine not covered above.	Expenditure by way of any other penalty or fine not covered above.
Expenditure incurred for any purpose which is an offence or which is prohibited by law.	Expenditure incurred to compound an offence under any law for the time being in force, in India or outside India
	Expenditure incurred to provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guideline, as the case may be, for the time being in force, governing the conduct of such person.
	Expenditure incurred to settle proceedings initiated in relation to contravention under such law as notified by the Central Government in the Official Gazette in this behalf

Clause 22: Amended clause

- Amount of interest inadmissible u/s 23 of MSMED Act, 2006 *or any other amount not allowable u/s 43B(h) of the Income Tax Act.*

Reporting for MSME.

- Whether entity is registered under MSME?
- Whether entity is registered as Micro, small or medium enterprise?
- As a TA, do I need to check the financials of the vendor also?
- As a TA, do I call for confirmation from the vendor?
- As a TA, I should focus on micro and small or all three?
- Whether the client is required to make a provision for interest on sum payable on 31st March 2025?
- What if client called for the confirmation but vendor failed to provide the same?

Reporting for MSME.

- What if the client fails to provide for interest in the books of accounts?
- What if the principal amount is paid to the vendor but the interest is payable on 31st March 2025.
- What if the sum payable to vendor is not booked as expenses during the year.
- What if the provision for expenses made in the books but service not received by the client, like audit fees?
- Do I need to show sum payable and interest amount separately?

Reporting for MSME.

- Whether this is applicable on advance payment also?
- For example: As per agreement invoice raised for advance which is paid after 31st March 2025 and after 45 days.
- What if the TDS deducted and paid to the Government account but remaining amount not paid within 45 days and within 31st March 2025.
- What if the provision made in the books but service not yet rendered, and no invoice raised by the supplier. Such as audit fee.

Case study

- M/s ABC Pvt Ltd purchased goods from vendors, who are micro, small and medium as per MSMED Act. No payment has been made within the appointed date but made all the payment before 31st March 2025.
- Is there any interest needs to be provided?
- Is there any expenditure required to be disallowed?
- Is there any disallowance u/s 43B(h)?
- Do I need to deduct TDS on the interest payable?

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;

Disallowance/deemed income u/s 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:

Sl. No.	Date of payment	Nature of payment	Amount	Name and Permanent Account Number or Aadhaar Number of the payee, if available

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

- 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);

Sl. No.	Date of payment	Nature of payment	Amount	Name and Permanent Account Number or Aadhaar Number of the payee, if available

Clause 21

Sl. No.	Provision	Applicable section	Clause
1.	Provision for payment of gratuity not allowable.	40A(7)	21(e)
2.	Any sum paid by the assessee as an employer not allowable.	40A(9)	21(f)
3.	Particulars of any liability of a contingent nature;		21(g)
4.	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.		21(h)
5.	Amount inadmissible under the proviso to section	36(1)(iii)	21(i)

Clause No. 23 : Payment to Specified Person

- Tax auditor should obtain, from assessee, the list of ‘specified persons’ and expenditure/payment made to them and then scrutinize the items with reference to Sec. 40A(2).
- Amounts to be reported whether or not debited to Profit and Loss Account.
- The item does not require report of the auditor as to his own inference, whether the payment is excessive or unreasonable. He is required to specify the amounts paid to such related persons.

Clause No. 23 : Payment to Specified Person

- In case of a large Assessee, it may not be possible to verify the list of all persons covered by this Section. Therefore, the information supplied by the assessee can be relied upon and **make an appropriate disclosure.**
- *Whether a subsidiary company of a company is a relative or not?*

Clause 25

- Any amount of profit chargeable to tax u/s 41 and computation thereof.
- In case the amount given in this clause regarding section 41 of the Act is not routed through profit and loss account or income and expenditure account, the auditor may include the said fact in the observation para of the audit report.

Sl. No	Name of person	Amount of income	Section	Description of transaction	Computation, if any.

Clause 26

- In respect of any sum referred to in section 43B, the liability for which:-
 - (A) pre-existed on the first day of the previous year but was not allowable 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 ((for clauses other than clause (h) of section 43B) 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 No. 26 : Expenses allowable on payment basis Sec 43B

- Tax, duty, cess or fee, by whatever name called, under any law for the time being in force,
- Employer Contribution to provident / superannuation / gratuity or any other welfare fund.
- Employee bonus / commission
- Interest on any loan / borrowing from any specified institutions
- Interest on any loan / borrowing from a deposit taking NBFC.
- Interest on any loan or advances from a scheduled bank or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank in accordance with the terms and conditions of the agreement governing such loan or advances,
- Leave Salary / Encashment
- Sum payable to Indian Railways for the use of railway assets,

Clause No. 27

- Particulars of income or expenditure of prior period credited or debited to the profit and loss account.
- Material adjustments necessitated by circumstances which though related to previous periods but determined in the current period, will not be considered as prior period items.
- U/s 145 - Expense or Income which arise in the current year as a result of **error or omission** in the account of earlier years will be considered as prior period items. **AS-5 issued by ICAI need to be considered for the purposes of this Clause.**
- Assessee sustained loss due to theft in one year, but became finally irrecoverable in subsequent year. Held it was allowable in the year in which loss became irrecoverable. **Durga Jewelers 172 ITR 134 (M.P)**
- Expenditure of the earlier years means expenditure which arose, or which accrued in any earlier year and excludes any expenditure of an earlier year for which the liability to pay has crystallized during the year. **3i Infotech Limited [2010] 329 ITR 257 [Bom.]**

Clause 29A: Money received as advance or transfer of capital assets.

- Whether any amount is to be included as income chargeable u/h IOS as referred to Sec 56(2)(ix).
- If yes, furnish the nature of income and amount thereof.

Clause 29B: Refer 56(2)(x)

- Whether any amount is to be included as income chargeable u/h IOS as referred to Sec 56(2)(x).
- If yes, furnish the nature of income and amount thereof.

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].

Sl. No.	Name of the person from whom the amount borrowed or repaid on hundi.	PAN of (b), if available.	Address of (b) with city, state and PIN code.	Amount borrowed during the previous year.	Date of borrowing .	Amount due including interest	Amount repaid including the interest during the previous year	Date of payment

Clause 30A: Secondary adjustment

- Whether primary adjustment to transfer price, as referred to in Sec 92CE(1), has been made during the previous year? (Yes/No)
- If yes, please furnish the following details:-
- Under which clause of sec 92CE (1) primary adjustment is made?
- Amount of primary adjustment:
- Whether the excess money available with the AE is required to be repatriated to India as per the provisions of sec 92CE(2)? (Yes/No)
- If yes, whether excess money has been repatriated within the prescribed time (Yes/No)
- If no, the amount of imputed interest income on such excess money which has not been repatriated within the prescribed time:

Clause 30B: Limitation on Interest Deduction

- 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 sec 94B(1)? (Yes/No)
- If yes, please furnish the following details:-
- Amount of expenditure by way of interest or of similar nature incurred:
- EBITDA during the previous year.
- Amount of expenditure by way of interest which exceeds 30% of EBITDA as per above:
- Details of interest expenditure b/f as per sec 94B(4):
- Details of interest expenditure c/f as per sec 94B(4):

Clause 30C – GAAR Provisions

- Whether the assessee has entered into an impermissible avoidance arrangement, as referred to in section 96, during the previous year?
- If yes
- Nature of impermissible avoidance arrangement
- Amount (in Rs.) of tax benefit in the previous year arising, in aggregate, to all the parties to the arrangement.

Clause 31

- (ba) 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.*

Sl. No	Particulars
1	Name, address and PAN of the payer
2	Nature of transactions
3	Amount of receipt
4	Date of receipt

Clause 31

(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*

Sl. No.	Particulars
1.	Name, address and PAN
2.	Amount of receipt

Clause 31

(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.

Name, address and PAN of the payee.	Nature of Transactions	Amount of payment	Date of payment

Clause 31

- (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.

Name, address and PAN of the Payee	Amount of Payment

Clause No. 34 – TDS compliance

- **As per Guidance note issued by the ICAI**
- Rates of deduction is to be consider as per the law relevant to the P. Y.
- Rely upon the judicial pronouncements while taking any particular view.
- Refer relevant provisions, rules, circulars, notifications and such certificates obtained from the auditee to verify the cases where tax has been short deducted at source.
- In case payer deducts/recipient collects tax at source at rate lower than specified rate on basis of certificate u/s 195 or 197, the said rate to be considered as specified rate
- As per the provisions of Sec 195/ 197, certificate can be issued for no deduction or lower deduction of tax at source.
- In case of payment to NR, the applicable rate of TDS is to be read along with the DTAA.
- The tax auditor is required to provide the detail irrespective of any default on the part of assessee in complying with the provisions of Chapter-XVII-b or XVII-BB.

Clause No. 34 – TCS provision

- Detail in respect of interest u/s 201(1A) & 206C(7), if any to be provided.
- Sec. 201(1A)- Levy of simple interest on **failure to deduct** tax or payment thereof to the credit of Central Government
- Sec. 206C(7)- Levy of simple interest on **failure to collect** tax or payment thereof to the credit of Central Government
- If the assessee is liable to pay interest u/s 201(1A) or 206C(7), the auditor should verify such amount from the books of account & also from part G of the statement generated by the department in form no. 26AS.
- In case the assessee had disputed the levy or calculation of interest under TRACES, in form no. 26AS, the auditor may re-calculate the amount of interest u/s 201(1A) or Section 206C(7) up to the date of audit report for reporting under this Clause & also mention the fact in his observations provided in form no. 3CA & form no. 3CB.

Clause no. -36A:- Deemed dividend

- Whether the assessee has received any dividend as referred u/s 2(22) (e).
- This reporting is to be done in the report of receiver.

Clause-40:-Details regarding turnover, gross profit etc. of previous and preceding previous year

- As per sec 145A, the purchase and sales of goods or services shall be adjusted with the tax, duty, cess or fees etc.

Clause-41:- Details of demand raised or refund issued during the P.Y under any tax laws.

- When a refund is said to be issued. Whether the date of passing the order can be taken as date of issue of refund or the date of credit in the A/c of the assessee is the date.
- For example: the officer passed the order on 28th March and the order received by the assessee on 15th April and the refund credited in the assessee A/c on 5th May then in which P/Y it will be reported?

Clause 42

- Whether the assessee is required to furnish statement in Form No.61 or Form No.61A or Form 61B?

Income Tax department reporting Identification Number	Type of Form	Due date for furnishing	Date of furnishing	Whether the Form contains information about all details/ furnished transactions which are required to be reported. If not, please furnish list of details / transactions which are not reported.

Clause- 44: Break-up of total expenditure of entities registered or not registered under GST

Sl. No.	Name of the entity to whom payment is made.	GSTIN of the entity	Value debited to expenditure A/c	Value for which input tax credit is taken	Total amount paid to their vendor	Rason for NIL GST	Remarks, if any.

Clause 44

- Do I need to give details of all expenses, whether capital or revenue?
- Do I need to give the details of purchase from unregistered party also?
- Do I need to give the breakup of head wise expenditure or total expenditure is to be given in single item?
- Do I need to give the details where no ITC has been taken?
- Do I need to give the details where RCM is applicable?
- Do I need to give the details of depreciation, salaries and bad debts also where GST is not applicable?

Clause- 44: Break-up of total expenditure of entities registered or not registered under GST

- The format as per clause 44 of form 3CD requires that the information is to be given as per the following details:
- A. Total amount of expenditure incurred during the year
- B. Expenditure in respect of entities registered under GST
- C. Expenditure related to entities not registered under GST

Expenditure relating to goods or service exempt from GST (Column 3)

- Here, the value of all inward supply of goods or services which are exempt from GST is to be given.
- Section 2(47) of the CGST Asct, 2017 defines exempt supply as follows:
“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 the Integrated Goods and Services Tax Act, and includes non-taxable supply;”

Expenditure relating to entities falling under composition scheme (Column 4)

- Levy of tax under composition scheme is governed by section 10 of the CGST Act, 2017. While reporting the expenditure under this head, the following should be considered:
 - a) A composition dealer cannot charge GST in the invoices.
 - b) A composition dealer cannot make inter-State supply.
 - c) A composition dealer can issue only bill of supply and not a tax invoice.
 - d) The composition dealer should have mentioned the following words at the top of the bill of supply issued by them:
“Composition taxable person, not eligible to collect tax on supplies”

Expenditure relating to other registered entities (Column 5).

- Value of all inward supplies from registered dealers, other than supplies from composition dealers and exempt supply from registered dealers, are to be mentioned here
- There is a possibility that assessee may procure both exempt and taxable supplies from one registered person. Every inwards supply from a registered person should be analysed and if it is an exempt supply, the same should be reported under column (3). Only value of taxable inwards supply should be reported under column (5).

Total payment to registered entities (Column 6)

- The language used here is total payment to registered entities. A question may arise whether the total payment to the registered entities is to be reported or the total expenditure as booked in the books of account is to be reported here. A harmonized interpretation shall be that in column (6), the total of column (3) (4) and (5) is to be reported and hence, the value of expenditure booked as per books of account shall be reported.

Whether expenditure of capital nature is to be reported?

- In the table under clause 44, the language used is “*expenditure in respect of*”. Since the word used is ‘expenditure’, it is advised that the capital expenditure may also be reported separately as serial no. 2 in the format prescribed.
- This report may be prepared for an entity as a whole or for a branch thereof, as may be required and accordingly the information in these clauses may have to be filled up consolidating the expenditure incurred under various GST registrations.

Difficulties in reporting Clause 44:

- Many Assesseees do not maintain bifurcation of purchases from registered and unregistered persons. For eg, there may be printing and stationary expenses from registered persons on which ITC is not claimed and there may be purchases from unregistered persons also – in such situation, going item wise purchases to give bifurcation might be a very cumbersome job.

In case of purchases on which RCM is applicable, how to report?

- If reported as unregistered purchases, their system may capture excessive purchases from unregistered persons, thereby selecting cases for scrutiny.

Revision on Tax Audit Report

- The report of audit furnished under Rule 6G may be revised by the person by getting revised report of audit from an accountant, duly signed and verified by such accountant, and furnish it before the end of the relevant assessment year for which the report pertains.
- This revision is allowed where there is disallowance u/s 40 or u/s 43B and the assessee has paid the sum and now such expenditure is allowable to the assessee and such revision is necessary for recalculation of disallowance u/s 40 or u/s 43B.
- *Notification No. 28/2021 dated 01.04.2021*

Penalty u/s 271B

- If any person fails:-
 - to get his accounts audited in respect of any previous year
 - to furnish a report of such audit as required u/s 44AB

the Assessing Officer may direct that such person shall pay, by way of penalty,

- a sum equal to one-half per cent of the total sales, turnover or gross receipts, as the case may be, in business, or
- a sum of Rs. 1.50 lakh, whichever is less.

Case study

- Assessee having 2 business, TO of 1st business is 15 Cr and 2nd business is 70 Lakhs. Assessee gets his accounts audited for 1st business and filed the prescribed form within the due date.
- Whether penalty u/s 271B can be invoked in this case, if yes, on which TO.
- **Smt. Bharti Sharma, [2011] 44 SOT 230 (Delhi)**



THANK YOU



HAPPY
LEARNING.....

CA. Sachin Sinha



+91 9891315840



sachin@psc.co.in