

The background features a professional desk setup. On the left, a white computer keyboard is partially visible. In the center, a spiral-bound notebook with a brown cover is open. To the right, a stack of books is visible, with the top book having a teal cover. The entire scene is set against a dark blue background.

Important Clauses of Tax Audit Report

CA. IP. Anoop Bhatia

Impact of Clauses:

- Impact on Total Income Determination
- Impact on 143(1) / 143(3).
- Impact in form of penal consequences.
- Other clauses

Tax Audit Applicability: Clause 8

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

Clause 44AB(a)- Total sales/turnover/gross receipts in business exceeding specified limits

Clause 44AB(a)-Proviso where aggregate cash receipts and cash payments of business exceeding specified limits

Clause 44AB(b)- Gross receipts in profession exceeding specified limits

Clause 44AB(c)-i- Profits and gains lower than deemed profit u/s 44AE

Clause 44AB(c)-ii- Profits and gains lower than deemed profit u/s 44BB

Clause 44AB(c)-iii- Profits and gains lower than deemed profit u/s 44BBB

Clause 44AB(d)- Profits and gains lower than deemed profit u/s 44ADA

Clause 44AB(e)-When provisions of section 44AD(4) are applicable

Third Proviso to sec 44AB : Audited under any other law

Tax Audit Emanates

(Section 44AB read with Rule 6G)

Applicability of Tax Audit: (Clause 8)

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 ⁸⁹[***]:

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,

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

Applicability continues.....

(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,

Applicability continues....

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: (1st)

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 : (2nd)

Applicability continues....

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. (3rd)

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 ⁹¹[*date one month prior to*] the due date for furnishing the return of income under sub-section (1) of section 139.

Sec 44AD: 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 prescribed⁷⁵ during the previous year or before the due date specified in sub-section (1) of section 139 in respect of that previous year.

(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.

(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.

Sec 44AD(4): Special provision for computing profits and gains of business on presumptive basis.

(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).

(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.

Sec 44ADA(4):Special provision for computing profits and gains of profession on presumptive basis.

(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.

Sec 44AE: Special provision for computing profits and gains of business of plying, hiring or leasing goods carriages.

(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.

Underlying Theme:

- **Reporting by CA from the point of view of Revenue.**
- **To bring on surface certain disclosures / non-compliance directly effecting determination of total income of assessee.**
- **Ensuring authenticity of various figures adopted in total income computation.**
- **To ensure compliance of specific provisions of law or specific scheme of law.**

MEMORANDUM EXPLAINING THE PROVISIONS IN THE
FINANCE BILL, 1984

PROVISIONS RELATING TO DIRECT TAXES

PROPOSED AMENDMENTS TO THE INCOME-TAX ACT
MEASURES FOR COUNTERING TAX EVASION

*Compulsory audit of accounts of certain persons carrying on
business or profession*

15. Accounts maintained by companies are required to be audited under the Companies Act, 1956. Accounts maintained by co-operative societies are also required to be audited under the Co-operative Societies Act, 1912. There is, however, no obligation on other categories of taxpayers to get their accounts audited.

16. A proper audit for tax purposes would ensure that the books of account and other records are properly maintained and that they faithfully reflect the income of the taxpayer and claims for deductions are correctly made by him. Such audit would also help in checking fraudulent practices. It can also facilitate the administration of tax laws by a proper presentation of the accounts before the tax authorities and considerably saving the time of assessing officers in carrying out routine verifications, like checking correctness of totals and verifying whether purchases and sales are properly vouched or not. The time of the assessing officers thus saved could be utilised for attending to more important investigational aspects of a case.

Form 3CA

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.

Qualification Clauses:

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.

Amount of expense 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

Documents necessary to verify the reportable transaction were not made available.

Fair market value of shares u/s56 (2) (viiia)/(viib) is not ascertainable

GP ratio is not ascertainable from the financial statements prepared by the assessee.

Information regarding demand raised or 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.

Others

Prior period expenses are not ascertainable from books of account.

Proper books of account, to enable reporting in form 3CD, have not been maintained by the assessee.

Proper stock records are not maintained by the assessee.

Records necessary to verify personal nature of expenses not maintained by the assessee.

Records produced for verification of payments through account payee cheque were not sufficient

Reports of audits carried by Excise/Service tax Department were not made available

TDS returns could not be verified with the books of account.

Valuation of closing stock is not possible.

Yield/percentage of wastage is not ascertainable.

F&O Transactions & Tax Audit:

Whether 'speculative' or not ?

(5) "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:

Proviso to Sec 43(5)

Provided that for the purposes of this clause—

(a) a contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchanting business to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured by him or merchandise sold by him; or

(b) a contract in respect of stocks and shares entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations; or

(c) a contract entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage to guard against loss which may arise in the ordinary course of his business as such member; or

Sec 43(5) continues.....

(*d*) an eligible transaction in respect of trading in derivatives referred to in clause (*ac*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) carried out in a recognised stock exchange; or

(*e*) an eligible transaction in respect of trading in commodity derivatives carried out in a ⁹⁴[recognised stock exchange], which is chargeable to commodities transaction tax under Chapter VII of the Finance Act, 2013 (17 of 2013),

shall not be deemed to be a speculative transaction:

F&O Transactions & Tax Audit Challenges:

- **Computing turnover of transactions**
- **Preparing Profit & Loss Account and Balance Sheet**

Change in Turnover Computation criteria for F&O Transactions:

As per the Seventh Edition of GN issued in 2014	As per the Eighth Edition of GN issued in 2022
(i) The total of favorable and unfavorable differences shall be taken as turnover.	(i) The total of favorable and unfavorable differences shall be taken as turnover.

(ii) Premium received on sale of options is also to be included in turnover.

(iii) In respect of any reverse trades entered, the difference thereon, should also form part of the turnover.

(ii) Premium received on sale of options is also to be included in turnover.

However, where the premium received is included for determining net profit for transactions, the same should not be separately included.

(iii) In respect of any reverse trades entered, the difference thereon, should also form part of the turnover.

Changes in Form 3CD
(Rule 6G vide notification no. 28 /2021
dated 01.04.2021)

**Can Tax Audit Report
be Revised ?**

Insertion of sub-rule (3) in Rule 6G

(3) The report of audit furnished under this rule 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, if there is payment by such person after furnishing of report under sub-rule (1) and (2) which necessitates recalculation of disallowance under section 40 or section 43B. ;

Clause 8A

(b) in Appendix II, in Form 3CD,-

(i) in PART –A for clause 8A, the following clause shall be substituted, namely: -

8A Whether the assessee has opted for taxation under section 115BA/115BAA/115BAB/ 115BAC/115BAD? ;

115BA: Tax on Income of Certain Manufacturing Domestic Companies (25%)

115BAA: Tax on Income of Certain Domestic Companies (22%)

115BAB: Tax on Income of Certain New Manufacturing Domestic Companies (15%)

115BAC: Tax on Income of Individuals & HUF (New Slab Rate)

115BAD: Tax on Income of Certain Resident Cooperative Societies (22%)

Applicability of Cl. 21, Cl. 34 & Amendment in TDS provisions

Amendments in TDS provisions:

Proviso to Sec 194A(1):

Provided that an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed ³⁸***one crore rupees in case of business or fifty lakh rupees in case of profession*** during the financial year immediately preceding the financial year in which such interest is credited or paid, shall be liable to deduct income-tax under this section.

Sub. for "the monetary limits specified under clause (a) or clause (b) of section 44AB" by the Act No. 12 of 2020, w.e.f. **1-4-2020**.

Similar amendments were also made in section 194C, 194H, 194I, 194J etc.

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

(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:

(I) date of payment.....

(II) amount of payment.....

(III) nature of payment.....

(IV) name and address of the payee.....

(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)

(I) date of payment.....

(II) amount of payment.....

(III) nature of payment.....

(IV) name and address of the payee.....

(V) amount of tax deducted.....

Clause 21(b) continues.....

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

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

(I) date of payment.....

(II) amount of payment.....

(III) nature of payment.....

(IV) 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 sub-section (1) of section 139.

(I) date of payment.....

(II) amount of payment.....

(III) nature of payment.....

(IV) name and address of the payer*.....

(V) amount of tax deducted.....

(VI) amount out of (V) deposited, if any

Clause 34 continues....

(b) whether the assessee is required to furnish the statement of tax deducted or tax collected. If yes, please furnish the details :

<i>Tax deduction and collection Account Number (TAN)</i>	<i>Type of Form</i>	<i>Due date for furnishing</i>	<i>Date of furnishing, if furnished</i>	<i>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 of details/ transactions which are not reported.</i>

Clause 34 continues....

(c) whether the assessee is liable to pay interest under section 201(1A) or section 206C(7). If yes, please furnish:

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.

Section 43B Reporting (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.)

Reporting on Sec 28 / 41 etc.

Clause 16 & 25

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.

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

Sec 28: Profits and gains of business or profession

28. The following income shall be chargeable to income-tax under the head "Profits and gains of business or profession",—

(i) the profits and gains of any business or profession which was carried on by the assessee at any time during the previous year ;

(ii) any compensation or other payment due to or received by,—

(a) any person, by whatever name called, managing the whole or substantially the whole of the affairs of an Indian company, at or in connection with the termination of his management or the modification of the terms and conditions relating thereto;

(b) any person, by whatever name called, managing the whole or substantially the whole of the affairs in India of any other company, at or in connection with the termination of his office or the modification of the terms and conditions relating thereto ;

(c) any person, by whatever name called, holding an agency in India for any part of the activities relating to the business of any other person, at or in connection with the termination of the agency or the modification of the terms and conditions relating thereto ;

(d) any person, for or in connection with the vesting in the Government, or in any corporation owned or controlled by the Government, under any law for the time being in force, of the management of any property or business ;

(e) any person, by whatever name called, at or in connection with the termination or the modification of the terms and conditions, of any contract relating to his business;

Sec 28 continues.....

(iii) income derived by a trade, professional or similar association from specific services performed for its members ;

(iiia) profits on sale of a licence granted under the Imports (Control) Order, 1955, made under the Imports and Exports (Control) Act, 1947 (18 of 1947) ;

(iiib) cash assistance (by whatever name called) received or receivable by any person against exports under any scheme of the Government of India ;

(iiic) any duty of customs or excise re-paid or re-payable as drawback to any person against exports under the Customs and Central Excise Duties Drawback Rules, 1971 ;

(iiid) any profit on the transfer of the Duty Entitlement Pass Book Scheme, being the Duty Remission Scheme under the export and import policy formulated and announced under section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) ;

(iiie) any profit on the transfer of the Duty Free Replenishment Certificate, being the Duty Remission Scheme under the export and import policy formulated and announced under section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) ;

Sec 28 continues.....

(iv) the value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession ;

(v) any interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from such firm :

Provided that where any interest, salary, bonus, commission or remuneration, by whatever name called, or any part thereof has not been allowed to be deducted under clause (b) of section 40, the income under this clause shall be adjusted to the extent of the amount not so allowed to be deducted ;

(va) any sum, whether received or receivable, in cash or kind, under an agreement for—

(a) not carrying out any activity in relation to any business or profession; or

(b) not sharing any know-how, patent, copyright, trade-mark, licence, franchise or any other business or commercial right of similar nature or information or technique likely to assist in the manufacture or processing of goods or provision for services:

Provided

Sec 28 continues.....

(vi) any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

Explanation.—For the purposes of this clause, the expression "Keyman insurance policy" shall have the meaning assigned to it in clause (10D) of section 10;

(via) 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;(FA2018)

(vii) any sum, whether received or receivable, in cash or kind, on account of any capital asset (other than land or goodwill or financial instrument) being demolished, destroyed, discarded or transferred, if the whole of the expenditure on such capital asset has been allowed as a deduction under section 35AD.

Explanation 1.—[Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.]

Explanation 2.—Where speculative transactions carried on by an assessee are of such a nature as to constitute a business, the business (hereinafter referred to as "speculation business") shall be deemed to be distinct and separate from any other business.

Sec 41: Profits chargeable to tax.

41. (1) Where an allowance or deduction has been made in the assessment for any year in respect of loss, expenditure or trading liability incurred by the assessee (hereinafter referred to as the first-mentioned person) and subsequently during any previous year,—

(a) the first-mentioned person has obtained, whether in cash or in any other manner whatsoever, any amount in respect of such loss or expenditure or some benefit in respect of such trading liability by way of remission or cessation thereof, the amount obtained by such person or the value of benefit accruing to him shall be deemed to be profits and gains of business or profession and accordingly chargeable to income-tax as the income of that previous year, whether the business or profession in respect of which the allowance or deduction has been made is in existence in that year or not; or

(b) the successor in business has obtained, whether in cash or in any other manner whatsoever, any amount in respect of which loss or expenditure was incurred by the first-mentioned person or some benefit in respect of the trading liability referred to in clause (a) by way of remission or cessation thereof, the amount obtained by the successor in business or the value of benefit accruing to the successor in business shall be deemed to be profits and gains of the business or profession, and accordingly chargeable to income-tax as the income of that previous year.

Sec 41 continues.....

(4) Where a deduction has been allowed in respect of a bad debt or part of debt under the provisions of clause (vii) of sub-section (1) of section 36, then, if the amount subsequently recovered on any such debt or part is greater than the difference between the debt or part of debt and the amount so allowed, the excess shall be deemed to be profits and gains of business or profession, and accordingly chargeable to income-tax as the income of the previous year in which it is recovered, whether the business or profession in respect of which the deduction has been allowed is in existence in that year or not.

**Clause on reporting of Provident Fund
36(1)(va)**

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

Sec 36(1)(va)

(va) any sum received by the assessee from any of his employees to which the provisions of sub-clause (x) of clause (24) of section 2 apply, if such sum is credited by the assessee to the employee's account in the relevant fund or funds on or before the due date.

[Explanation 1].—For the purposes of this clause, "due date" means the date by which the assessee is required as an employer to credit an employee's contribution to the employee's account in the relevant fund under any Act, rule, order or notification issued thereunder or under any standing order, award, contract of service or otherwise.

[Explanation 2.—*For the removal of doubts, it is hereby clarified that the provisions of section 43B shall not apply and shall be deemed never to have been applied for the purposes of determining the "due date" under this clause;*] (Inserted by the Finance Act 2021 wef 01.04.2021)

**Payments to Related
Parties i.e. Sec 40A(2)**

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

Identification of Related party

Nature of Transactions thereof, effecting business / profession income computation thereof

Other Heads of Income and Form 3CD ?

Income from Other Source

Income from Capital Gain

Clause 28, 29

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)(viiia), if yes, please furnish the details of the same.

(Applicable on Firms / Co. (in which public is not substantially interested))

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.

(Applicable on Co. in which public is not substantially interested)

Clause 29A & 29B

29A. (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:

(advance money forfeited)

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 :

(ii) (ii) Amount (in Rs.) thereof:

Clause 15: Sec 45(2)

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 asset is converted into stock-in-trade.

Section 79 and Tax Audit

Section 79: Carry forward and set off of losses in case of certain companies.

79. (1) Notwithstanding anything contained in this Chapter, where a change in shareholding has taken place during the previous year in the case of a company, not being a company in which the public are substantially interested, no loss incurred in any year prior to the previous year 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 fifty-one per cent of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than fifty-one per cent of the voting power on the last day of the year or years in which the loss was incurred:

Clause 32(b)

Where 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.

.....

Deductions under Chapter VIA and Tax Audit

Clause 33

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.

Carried Forward Losses and Tax Audit

32. ³(a) Details of brought forward loss or depreciation allowance, in the following manner, to the extent available:

<i>Sl No</i>	<i>Assessment Year</i>	<i>Nature of loss/ allowance (in rupees)</i>	<i>Amount as returned* (in rupees)</i>	<i>All losses/ allowances not allowed under section 115BAA/ 115BAC/ 115BAD</i>	<i>Amount as adjusted by withdrawal of additional depreciation on account of opting for taxation under section 115BAC/115BAD^</i>	<i>Amounts as assessed (give reference to relevant order)</i>	<i>Remarks</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>	<i>(6)</i>	<i>(7)</i>	<i>(8)</i>

*If the assessed depreciation is less and no appeal pending than take assessed.

^ To be filled in for assessment year 2021-22 only.]

(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.

Deemed Dividend and Tax Audit

Clause 36A

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:

Clauses resulting in initiation of Penal Proceedings:

- Cl 31(a) / (b) : Penalty u/s 271D (for non-compliance of section 269ST)
- Cl 31(ba) / (bb): Penalty u/s 271DA (for non-compliance of section 269ST)
- Cl. 31(c): Penalty u/s 271E (for non-compliance of sec 269T)
- Cl. 21 & 34 : TDS non-compliance

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

- **Clause was inserted wef 20.08.2018**
- **Whether applicable for the Tax Audit reports to be issued for the AY 2023-24 ?**
- **Whether the registration of assessee under GST is a must ?**
- **Whether Capital and Revenue expenses both are covered under this clause ?**
- **Relevant GST Data to be gathered from GSTA-2A, GSTR-2B, AIS etc.**

Clause 44:

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

<i>Sl. No.</i>	<i>Total amount of Expenditure incurred during the year</i>	<i>Expenditure in respect of entities registered under GST</i>				<i>Expenditure relating to entities not registered under GST</i>
		<i>Relating to goods or services exempt from GST</i>	<i>Relating to entities falling under composition scheme</i>	<i>Relating to other registered entities</i>	<i>Total payment to registered entities</i>	
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>	<i>(6)</i>	<i>(7)</i>

From ICAI Guidance Note on Tax Audit: AY23-24

82.1 A question may arise whether the above information is to be given in respect of each and every head of expenditure or only the total expenditure is to be given. Here, guidance may be taken from the heading of the table which starts with the words “Breakup of total expenditure” and hence the total expenditure including purchases as per the above format may be given. It appears that head-wise / nature wise expenditure details is not envisaged in this clause.

82.2 Depreciation under section 32, deduction for bad debts u/s 36(1)(vii) etc. which are not expenses should not be reported under this clause in any of the Columns from 3 to 7.

Clause 44: Guidance Note content continue...

82.3 Schedule III to the CGST Act, 2017 lists out activities or transactions which are treated neither as a supply of goods nor a supply of services and thus expenditure incurred in respect of such activities need not be reported under this clause in any of the columns from 3 to 7. For example, Para (1) of the Schedule III covers “Services by an employee to the employer in the course of or in relation to his employment” and thus, remuneration to employees need not be reported.

82.4 It may be noted that any expenditure that is incurred, wholly and exclusively for business or profession of the assessee qualifies for the deduction under the Act. Registration or otherwise of the payee under the GST Act has no relevance in considering allowability of expenditure.

Some more questions / points:

- Whether allowability or otherwise of an expense if important for reporting under clause 44 ?
- Whether depreciation / bad debts should form part of Clause 44 reporting ?

82.2 Depreciation under section 32, deduction for bad debts u/s 36(1)(vii) etc. which are not expenses should not be reported under this clause in any of the Columns from 3 to 7.

Whether ‘Disclaimer’ can be a solution ?

Can there be a disclaimer clause like this:

“Details as required by Clause 44 are not maintained by the assessee hence we are unable to comment”.

Few Suggestions:

- Preparing an audit plan and compiling the data gathered during the course of audit.
- Obtaining Management Representation Letter with reference to various clauses (cash balance, stock position, GST details, conversion of capital assets into stock or vice versa, TDS compliance, PF / ESI compliance, Sec 269SS / 269T / 269ST transactions etc.)
- Alignment of Tax Audit Report & ITR.
- **We must also take care of the observations of the Tax Audit Quality Review Board (TAQRB) in it's publication titled 'Study on Compliance in Reporting in Tax Audit Report'.**

Thanks !! Jai Hind !!!

DELAYED PAYMENTS TO MICRO AND SMALL ENTERPRISES

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

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

16. Where any buyer fails to make payment of the amount to the supplier, as required under section 15, the buyer shall, notwithstanding anything contained in any agreement between the buyer and the supplier or in any law for the time being in force, be liable to pay compound interest with monthly rests to the supplier on that amount from the appointed day or, as the case may be, from the date immediately following the date agreed upon, at three times of the bank rate notified by the Reserve Bank.

17. For any goods supplied or services rendered by the supplier, the buyer shall be liable to pay the amount with interest thereon as provided under section 16.

Sec 2(b):

(b) "appointed day" means the day following immediately after the expiry of the period of fifteen days from the day of acceptance or the day of deemed acceptance of any goods or any services by a buyer from a supplier.

Explanation.--For the purposes of this clause,--

(i) "the day of acceptance" means,--

(a) the day of the actual delivery of goods or the rendering of services; or

(b) where any objection is made in writing by the buyer regarding acceptance of goods or services within fifteen days from the day of the delivery of goods or the rendering of services, the day on which such objection is removed by the supplier;

(ii) "the day of deemed acceptance" means, where no objection is made in writing by the buyer regarding acceptance of goods or services within fifteen days from the day of the delivery of goods or the rendering of services, the day of the actual delivery of goods or the rendering of services;

Section 23. Interest not to be allowed as deduction from income.

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Notwithstanding anything contained in the Income-tax Act, 1961 (43 of 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.

Section 24. Overriding effect.

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The provisions of sections 15 to 23 shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Certain deductions to be only on actual payment.

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

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

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

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

Provided that nothing contained in this section ⁵⁵**[[*except the provisions of clause(h)*]]** shall apply in relation to any sum which is actually paid by the assessee on or before the due date applicable in his case for furnishing the return of income under sub-section (1) of [section 139](#) in respect of the previous year in which the liability to pay such sum was incurred as aforesaid and the evidence of such payment is furnished by the assessee along with such return.