

Tirupati Branch of SIRC of ICAI
17th August, 2018

TAX AUDIT REPORT

U/s 44AB of Income Tax Act, 1961

by

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Applicability

- Tax audit is applicable to every person i.e. i.e. individual, HUF, Company, Partnership firm, AOP/BOI, Local authority, Co-operative society/Trust, AJP based on the below mentioned **Nature of Activity & Criteria.**

Business	<ul style="list-style-type: none">• Total Sales/Turnover/Gross Receipts Exceeds Rs.1 Crore
Profession (specified u/s 44 AA)	<ul style="list-style-type: none">• Gross Receipts Exceeds Rs.50 Lakhs
Business (u/s 44AE, 44BB , 44BBB)	<ul style="list-style-type: none">• Profits/Gains are declared at lower than Profits/Gains deemed to be declared under these sections.
Business (u/s 44AD)	<ul style="list-style-type: none">• Profits/Gains disclosed is lower than 8% or 6%(via Account Payee cheque or electronic form) Turnover or Gross Receipts.• (<i>Turnover/Gross Receipts being less than Rs.2 crores</i>)
Profession (u/s 44ADA)	<ul style="list-style-type: none">• Profits/Gains disclosed are lower than 50% of Gross Receipts.• (<i>Gross Receipts being less than Rs.50 Lakhs</i>)

Tax Audit Report

- Every person to whom tax audit is applicable should get his accounts audited by an accountant before the prescribed due date.
- Such accountant should give the Audit report and other particulars in the forms prescribed.

Tax Audit

3CA

In case of person who is required to get his accounts audited under any other law

3CB –

In case of persons who are not required to submit 3CA

3CD-

The other particulars are required in Form 3CD

Is Revision of TAR possible?

- Generally revision of Tax Audit Report is **not advisable** but in certain **conditions** the same can be revised:
- Revision of accounts of company after its adoption in AGM.
 - Change in law.
 - Change in interpretation of law.
 - Any other technical issues.
- There is no time limit for revision of TAR
- After revising the TAR, the revised report should be in line with SA 560 (Subsequent events) in which reasons for revision should be mentioned.

- Can auditor revise TAR voluntarily:
 - Yes, Auditor can revise tax audit report voluntarily, if
 - it comes to the knowledge of auditor that his **client is engaged in another business also &**
 - the **same has not been disclosed** to him at the time of the filing original Tax Audit report.
- In case of Joint auditors:
 - As the TAR need to be filed by **one auditor**, all the Joint auditors shall mutually agree and decide as to who shall file the same.
 - But the Audit report need to be **signed by all the auditors** in view of SA-299.
 - If there are discrepancies between the Joint auditors then **each auditor should express own opinion** through a separate report.

Failure to comply with Sec 44AB

As per Section 271B:

- If any person fails to comply with the provisions of the Section 44AB then penalty will be levied by the Assessing Officer which shall be minimum of the following amounts:

- 0.5% of the Total sales/Gross receipts/Turnover
(as the case may be)

Or

- Rs 1,50,000/-



which ever is Lower

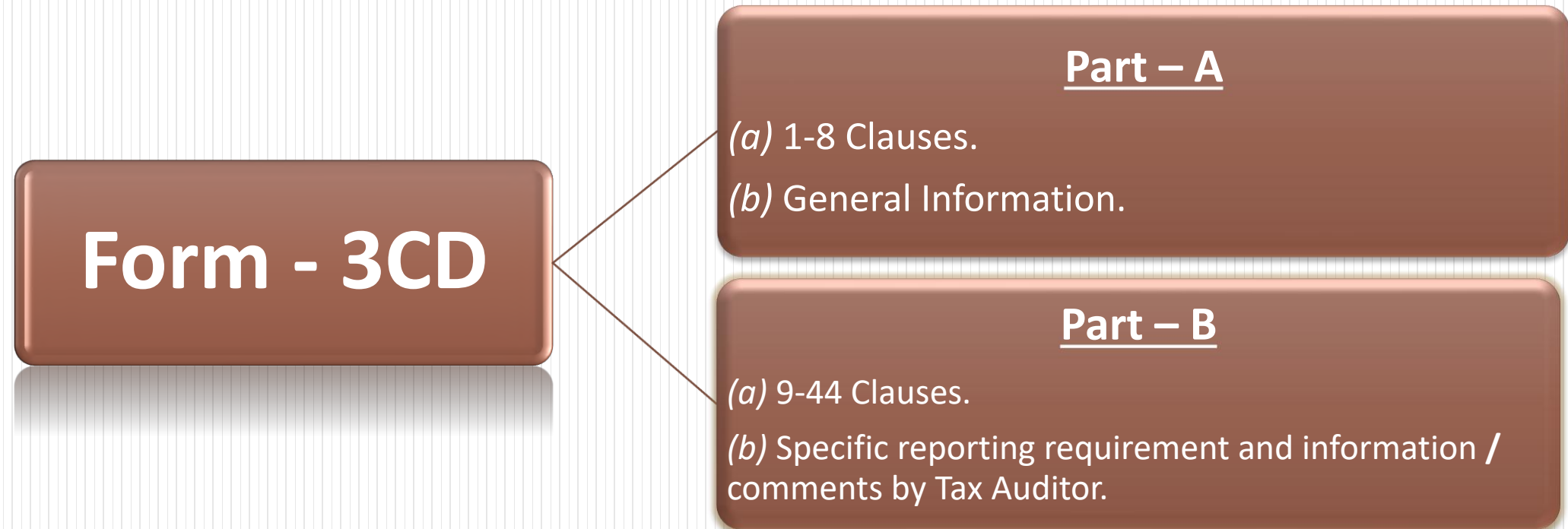
U/s 271J: Penalty of Rs.10,000/- is levied for furnishing incorrect information in reports or certificates by an accountant.

Approach towards Tax Audit

- Fact Based Reporting Vs. Opinion Based Reporting:
 - We need to Certify **True and Correct** Vs. **True and Fair View**
- Not all reported items are disallowed
- Primary responsibility of Management to compile the information
- Tax Audit is also **part of Peer Review** since it is also an attest function
- Reliance / Binding Nature of Guidance Note of ICAI.
- **Documentation** - MRL, DSC, working Papers and other Annexures, signature of the assessee is must.

“ Write what you do and do what you Write”

FORM 3CD – Overview



Important considerations for Tax Auditor

Form 3CD

- The information in Form No.3CD should be **based on the books of account, records, documents, information and explanations** made available to the tax auditor for his examination.
- If a particular item of income/ expenditure is **covered in more than one of the specified clauses** in the statement of particulars, **a suitable cross reference** to such items at the appropriate places.
- If there is any **difference in the opinion** of the **tax auditor & that of the assessee** in respect of any information furnished in Form No. 3CD, the tax auditor should state both the view points and also the relevant information in order to enable the tax authority to take a decision in the matter.
- In computing the allowance/ disallowance, the **law applicable in the relevant year should keep in view**, even though the form of audit report may not have been amended to bring it in conformity with the amended law.
- In case the **auditor relies on a judicial pronouncement**, mention the fact as his observations in **clause (3) of Form No.3CA or clause (5)** provided in Form No.3CB, as the case may be
- The Tax Auditor may **qualify his report on matters in respect of which information is not furnished** to him and **state** in his report that the **relevant information has not been furnished by the assessee.**

List of Clauses – 3CD Part A

Clause No.	Particulars
1.	Name of the Assessee
2.	Address of the Assessee
3.	Permanent Account Number(PAN)
4.	Whether the assessee is liable to pay indirect tax (GST). 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

Form 3CD – Part A

- **Clause - 4**

Nature of Item	Response
<p>“Whether the assessee is liable to pay Indirect taxes like excise duty, service tax, sales tax, customs duty, etc.</p> <p>If yes, please furnish the Registration Number or any other identification number allotted for the same.”</p>	<ul style="list-style-type: none">• GSTIN & GSTIN number to be mentioned after the words “sales tax,”, the words “goods and services tax,” shall be inserted;• after the words “registration number or”, the words “GST number or” shall be inserted.• The tax auditor should get Management Representation Letters from the assessee a list of taxes applicable and obtain the copy of registration certificates available with assessee.• If the assessee has multiple registrations, then get the all the certificates for proper disclosure.• If the assessee is liable but not registered, then this will come in qualification.

List of Clauses – 3CD Part B

Clause No.	Particulars
9.	<p>(a) If firm or association of persons, indicate names of partners/members and their profit sharing ratios.</p> <p>(b) If there is any change in the partners or members or in their profit sharing ratio since the last date of the preceding year, the particulars of such change.</p>
10.	<p>(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)</p> <p>(b) If there is any change in the nature of business or profession, the particulars of such change.</p>

Form 3CD – Part B

Additions/Amendments in clauses	Nature of Item	Response
Clause 11	<p><u>Clause 11(a)</u> Whether books of account are prescribed under Section 44AA, if yes, list of books so prescribed</p> <p><u>Clause 11 (b)</u> List of books of account maintained and the address at which the books of accounts are kept. (even if maintained electronically)</p> <p><u>Clause 11 (c)</u> List of books of account and nature of relevant documents examined</p>	<ul style="list-style-type: none">• In case the books of accounts are kept at more than one location then auditor is required to mention the details of address of each location along with the BOA maintained.• Minutes and Statutory registers and records should be maintained since inception as these are principle documents.• <u>The auditor should make a checklist of the details asked and hand it over to assessee for getting the data.</u>

Clause 12 – Presumptive Income Disclosure

- Whether the profit and loss account includes any profits and gains assessable on presumptive basis, if yes, indicate the amount & the relevant section:

Under Section	Nature of Business Activity
44AD	Eligible Business/Assessee (Individual, HUF, Firm)
44AE	Transport Business – Not exceeding 10 Vehicles
44B	Shipping Business of Non – Resident
44BB	Non Resident providing Services in prospecting or extraction of mineral oils
44BBA	Operation of Aircraft by Non Resident
44BBB	Civil Construction in Turnkey Power Project by non residents
Chapter- XII-G	Shipping Business
First Schedule	Insurance Business

Presumptive Taxation

To get relief to from this tedious work of maintenance of Books of accounts, a small taxpayer can opt for presumptive taxation under section 44AD, 44AE or 44ADA upon satisfaction of the prescribed conditions:

- Deemed net profit will be as under:
 1. **Non Cash Sales** (Receipts through Online Transfer, Account Payee Cheque/ Draft, NEFT, RTGS) – Deemed Net Profit shall be 6% of Total Turnover or Gross Receipts. (To encourage non-cash payments through bank or digital channels)
 2. **Cash Sales** – Deemed Profit shall be 8% of Total Turnover or Gross Receipts.

Presumptive Taxation

Eligible Assessee

- Individual, HUF or Partnership Firm

Eligible Business

- Any business **except** the business of plying, hiring or leasing goods carriages referred to in section 44AE and
- whose total turnover or gross receipts in the previous year does not exceed an amount of **two crore rupees**.
- Professionals referred in 44AA(1) – 44ADA, total gross receipts should not exceed Rs.50L - tax @ 50%.

Non-applicability

- LLP & Company
- A person earning income in the nature of commission or brokerage, or
- A person carrying on any agency business.

Consequences of Presumptive Tax

Important Point`s:

- Amount to be disclosed is the amount included in profit & loss account and not the assessable presumptive amount
- The value of material supplied by the client is not included in Gross receipt and value of work in progress would not constitute turnover.
- In case of **composite business**, if the books of accounts are commonly maintained, apportionment of the common expenses is on reasonable estimate & should be disclosed-Turnover basis is mostly accepted by I-Tax.
- Lock in for 5 year – as per amendment made by Finance Act – 2016.
- liable to pay whole amount of advance tax on or before 15th March..
- Failure to pay the advance tax attracts interest as per section 234B & 234C
- salary/ remuneration, interest paid to partners shall no longer be allowed.
- In case of Loss including F & O Losses - ?



Method of Accounting and Changes during previous year:

- As per provisions of Section 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.
- If any change in the **method of accounting** employed vis-a-vis the method employed in the immediately preceding previous year:
 - give details of such change, and the effect thereof on the P & L.
- **Adjustments to** be required to be made to Income or Loss to comply with **ICDS**.

Clause – 13 Method of Accounting



Notified Income Computation and Disclosure Standards:

ICDS	Name of ICDS	Corresponding AS	Corresponding IND AS
I	Accounting Policies	1 & 5	1 & 8
II	Valuation of Inventories	2	2
III	Construction Contracts	7	11
IV	Revenue Recognition	9	11
V	Tangible Fixed Assets	10	16
VI	*Changes in Foreign Exchange Rates	11	21
VII	Government Grants	12	20
VIII	*Securities	13	109
IX	Borrowing Cost	16	23
X	Provisions, Contingent Liabilities & Contingent Assets	29	37

**Disclosure is not required for ICDS VI & ICDS VIII*

Clause -14 Method of Valuation of Closing Stock



- Method of Valuation of Closing Stock
- **in case of deviations** from the method of valuation prescribed section 145A and the **effect thereof on the Profit or Loss** , please furnish details as per below table

S.No.	Particulars	Increase in Profit (Rs.)	Decrease in Profit (Rs.)

Notes:

- ✓ *Section 145A has been amended retrospectively from 01.04.2017, inventory shall be valued at **lower of actual cost or net realisable value** computed in accordance with the ICDS-II – Valuation of Inventories.*
- ✓ *Needless to mention that practice of disclosing that “ Inventory has been accepted as certified by management” is not acceptable as it creates deficiency in audit procedure which mandates the auditor to ensure existence of inventory as well as condition of SA -501 – Audit Evidence –Additional Consideration of specific Items.*

Clause -14 Method of valuation of Closing Stock



State the basis of stock briefly with reasonable details.

Please note that ICDS-II – Valuation of Inventories provides only two methods of valuation:

- FIFO or Weighted Average Method – commonly used methods to assign costs.
- Specific Identification of Cost Method – used in case of
 - Items that are not ordinarily interchangeable.
 - Goods and services produced and segregated for specific projects.

Clause 15 – Conversion of Capital Asset into Stock In Trade

Conversion of Capital Assets into Stock In Trade:

- Such conversion treated as Transfer U/s 2(47)
- Capital gain arises from such transfer and **chargeable to tax in the year in which such stock-in-trade is sold.**

Description of Capital Asset	Date of Acquisition	Cost of Acquisition	Amount at which the assets is converted into Stock –in – Trade

Clause 16 – Amounts not Credited to P & L A/c

Amounts not credited to P & L A/c being

- The items falling within the scope of Section 28.
- The Performa 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.
- **Escalation claims accepted** during the Previous Year.
- Any other item of income.
- Capital receipt, if any.

Description of items	Total Amount in Rs.

Clause 17- Transfer for consideration less than value adopted by Authority

Nature of item		Response	
<p>Where any land or building or both is transferred during the previous year for a consideration less than the value adopted or assessed or assessable by any authority of a State Government referred to in Section 43CA or 50C, please furnish</p> <p>New Proviso inserted by Finance Act, 2018- if stamp duty value is less than 105% of the actual consideration received, actual consideration shall be considered as full value consideration.</p>		<ul style="list-style-type: none"> • Points to remember: • The auditor has to report under this clause about details the transactions done in previous year which attracts section 50C/43CA as discussed. • Accounts/details of Fixed Assets, investments and inventory. • Refer to the accounts like rates and taxes, legal fees etc. (to find out if there is any expense booked in relation to transfer of such asset). • In case of Date of Agreement and Date of Registration are not on same day, stamp duty value as on Date of Agreement shall be deemed to be value of consideration.(However subjected to certain conditions) 	
Details of property	Address of the property	Consideration received/accrued	Value adopted /assessed/assessable

Clause 18 – Allowable Depreciation

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:

Description of the Block of Assets	Rate of Depreciation	Actual Cost/WDV	Additions/ Deletions with Dates*	Depreciation allowable	Written down value at the end of the year

*The following needs to be adjusted on Additions/Deletions of assets made during the year

- Central Value Added Tax Credits Claimed.
- Change in rate of exchange currency.
- Subsidy or grant by whatever name called.

Note : Highest Depreciation rate from the Assessment year 2018-19 is 40%.

Clause 18 – Allowable Depreciation

Important points to consider in Clause 18:

- Depreciation is allowed on “actual Cost”- *term defined u/s 43(1) of Income Tax Act,1961.*
- An assessee can claim depreciation on actual cost even if he follows Cash method of accounting.
- Interest relatable to any period after such asset is first put to use is not a part of actual cost (other than Section 43A).
- Section **43A vis-à-vis AS 11-ICDS**
- Increase /decrease in Foreign Exchange Liability due to change in Exchange

Section 43A	AS-11	ICDS - VI
Added/Deducted from actual cost of the asset – extent of addition/deduction will be limited to the exchange difference actually paid during previous year.	Can be added to or deducted from the cost of the asset and shall be depreciated over the balance life of the asset.	In respect of non-monetary items, exchange differences arising on conversion thereof at the last day of the previous year shall NOT be recognised as income or as expense in that previous year. Effect of Profit should be reported under clause 13 form 3CD

Clause 19 – Amounts Admissible

(1/7)

Amounts admissible under sections:

Section	Amount debited to profit and loss account	Amounts admissible as per the provisions of the Income Tax Act, 1961 and also fulfils the conditions, if any specified under the relevant provisions of Income Tax Act, 1961 or Income Tax Rules, 1962 or any other guidelines, circular, etc., issued in this behalf.
32AD	Investment in new plant or machinery in notified backward areas in certain States	15% of actual cost of new asset
33AB	Tea development account, coffee development account and rubber development account.	Amount or aggregate of amounts deposited; OR 40% of profits of business; <i>whichever is Less</i>
33ABA	Site Restoration Fund: Deposit in ministry of petroleum & natural gas for extraction etc	Amount or aggregate of amounts so deposited; OR 20% profits of business; <i>whichever is less</i>

Clause 19 – Amounts Admissible

(2/7)

Section	Amount debited to profit and loss account	Amounts admissible /Quantum of deduction
35(1)(i)	Revenue expenditure (perquisites to employees and Purchase of materials) within immediately preceding 3 years of commencement of Business in respect of scientific research related to the business	100% of the expenditure
35(1)(ii)	Amount paid to research association which has as its object the undertaking of scientific research or to a university, college or other institution notified & approved by CG to be used for scientific research	100% of amount contributed (from A.Y. 2021-22) 150% of amount contributed (from A.Y. 2018-19 till A.Y. 2020-21)
35(1)(iia)	Amount paid to an approved company registered in India to be used for scientific research & development	100% of amount paid
35(1)(iii)	Amount paid to research association which has as its object the undertaking of research in social science or statistical research OR to a university, college or other institution notified & approved by CG to be used for research in social science or statistical research	100% of amount paid
35(1)(iv)	Capital expenditure on scientific research other than acquisition of land, related to the business carried on by the assessee, such deduction as may be admissible under the provisions of sub-Section (2)	100% of capital expenditure incurred

Clause 19 – Amounts Admissible

(3/7)

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

Clause 19 – Amounts Admissible

(4/7)

Section	Amount debited to profit and loss account	Amounts admissible /Quantum of deduction
35ABB	Capital Expenditure on license to operate telecommunication services	<p><u>License fees paid before commencement of business:</u> License fee paid / No. of years from the previous year of commencement of business to the previous year in which license expires.</p> <p><u>License fees paid after commencement of business:</u> License fee paid / No. of years from the previous year in which license fee actually paid to the previous year in which license expires.</p>
35ABA	Capital expenditure incurred for acquiring any right to use spectrum for telecommunication services	<p><u>Spectrum fees paid before commencement of business:</u> Spectrum Fee Paid/No. of years from previous year of commencement of business to the previous year in which license expires</p> <p><u>Spectrum fees paid after commencement of business:</u> Spectrum fee paid / No. of years from the previous year in which license fee actually paid to the previous year in which license expires.</p>

Clause 19 – Amounts Admissible

(5/7)

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

Clause 19 – Amounts Admissible

(6/7)

Section	Amount debited to profit and loss account	Amounts admissible /Quantum of deduction
35CCA	Rural development programme carried on by association & institutions	100% of expenditure
35CCC	Expenditure on agricultural extension project	150% of expenditure (till A.Y. 2020-21) 100% of expenditure (from A.Y. 2021-22 onwards)
35CCD	Expenditure on skill development project by a Company	100% of expenditure (from A.Y. 2021-22 onwards) 150% of expenditure (till A.Y. 2020-21)
*35D	Amortization of Preliminary Expenses by Indian Company or a Resident.	1/5 * Expenditure For each of the 5 successive P.Y. beginning with P.Y. in which business commences or extension is completed or new unit commences production/ operation Whether Total Preliminary expenditure exceeds an amount calculated @ 5% of <ul style="list-style-type: none">• The cost of the project• Capital employed in the business of company

**In case of a person other than a company, deduction shall be allowed only when it is audited by an accountant and assessee furnishes along with his return of Income for the first year in which deduction under this section is claimed, the report of such audit in prescribed form.*

Clause 19 – Amounts Admissible

(7/7)

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

Clause 20 – Payments to Employees

Clause 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)] - **Deduction can be allowed subject to section 43B, in a year in which actual payment is made.**

Clause 20(b): Details of contributions received from employees for various funds as referred to in section 36(1)(va):

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

- **Sec 36(1)(va)** : any sum received by the assessee from any of his employees to which the provisions of Section 2(24)(x) 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.

Clause 20 – Payments to Employees

The following funds are covered under this clause:

- Provident Fund - Superannuation Fund
- Gratuity Fund - Any Fund setup under the provisions of ESI Act, 1948
- Any Other Welfare Fund

Important points to consider:

- Only disclosure of amount is required but the Auditor's opinion about its allowability or otherwise is not required.
- **“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 [*Explanation to Section 36(1)(va)*].

Clause 21 – Capital, personal, advt. exps. debited to P & L

(1/11)

Clause 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.

- Capital Expenditure.
- Personal Expenditure.
- Advertisement expenditure published by a political party.
- *Expenditure incurred* :
 - at clubs (entrance fees, subscriptions, facilities used)
 - penalty or fine & other penalty or fine
 - Expenditure incurred for any purpose which is an offence / prohibited by law

Important points to be considered:

- Indicate separately capital expenses allowed as deduction in Computation of total income under the Act e.g., 32AC & 32AD
- Personal” is confined & related with assessee only. Company cannot have personal expenses because it is an artificial entity, which does not have personal needs and thus use of vehicles for directors cannot be treated as personal use by the company. [*Sayaji Iron and Engg. Co. v. CIT [2002] 253 ITR 749 (Guj.)*]

Clause 21(b) – Amounts inadmissible

(2/11)

(i) as payment to non-resident referred to in sub-Clause (i) of 40(a)

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

Date of Payment	Amount of Payment	Nature of Payment	Name of the payee	PAN of the payee	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)

Date of Payment	Amount of Payment	Nature of Payment	Name & Address of the payee	PAN of the payee	Address of the payee	Amount of Tax deducted

Clause 21(b) – Amounts Inadmissible (3/11)

(viii) Under Section 40(a)(iv)

- Payment to PF and Other funds under subclause (iv)
 - Any payment to a provident or other fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to secure that tax shall be deducted at source from any payments made from the fund which are chargeable to tax under the head "Salaries".
 - **Note: Premature withdrawal from PF before completion of 5 continuous years of service is subject to TDS u/s192A @ 10%.**

Disallowances on payments made 4/11

Particulars	Disallowances – Non Residents 40a(i)	Disallowances – Residents 40a(ia)	Disallowances – Non Residents 40a(ib)
Income	Interest, Royalty, Fees for technical services or Other sum	Any sum paid or payable	Any consideration paid or payable for specified service
Payable	<ul style="list-style-type: none"> • Outside India or • In India to non-resident 	-	-
Tax Deductible	TDS	TDS	Equalisation levy
Violation	<ul style="list-style-type: none"> • Such Tax has not been deducted • Having deducted, has not been paid on or before due date of furnishing the return 		
Amount of disallowance under head “PGBP”	100 % of such sum	30 % of such sum	100 % of such sum
<p>Provided if such tax is deducted or paid in subsequent year the same shall be allowed as deduction in subsequent year.</p>			

Consequences for non payment of TDS

5/11

S. No.	U/s	Description
1	40(a)	Disallowance of expenses in computing taxable income of payer. Allowance in the year of deduction
2	201(1)	Recovery of tax not deducted / deposited or short deducted / deposited
3	201(1A)	Interest @ 1% / 1.5% per month or for part of the month
4	221	Penalty – not exceeding the amount of tax not paid
5	271C	Penalty – not exceeding the amount of tax not withheld
6	276B	Prosecution

Clause 21(b) – Amounts Inadmissible (6/11)

(ix) Under Section 40(a)(v)

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

Clause 21(c): Amounts inadmissible under Section 40(a)

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

Clause 21(d) Disallowance or Deemed Income (7/11)

Nature of item	Response
<p>(d) <u>Disallowance/deemed income under Section 40A(3):</u></p> <p>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.</p> <p>A. 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 u/s 40A(3A):</p>	<p>This new insertion has brought additional reporting under form 3CD regarding the cash expense.</p> <p>The auditor has to report two things specifically;</p> <p>That the cash payment during the previous year exceeding Rs. 10,000 per day.</p> <p>That the expense allowed previously in preceding years through accrual concept, for which cash payment is made beyond Rs. 10,000 should be treated as deemed income and reported here.</p> <p>The auditor need not obtain any certificate from assessee that section 40A(3) is duly complied , if complied.</p>

Cash Payments

8/11

Sec 32/43(1): Depreciation / Actual Cost	No depreciation on Capital Expenditure incurred in cash of more than Rs. 10,000/-	Payment should be made through Banking Channels only either by account cheque/draft or electronically through bank account	No claim of Depreciation Applicable Wef. 01.04.2017
Sec 40A (3) Reportable in clause 21 (d) of Form 3CD	No cash payment in relation to expenditure of more than Rs. 10,000/-		Dis allowance of expenditure Applicable wef. 01.04.2017

Where an **allowance has been made** in the assessment for any year **in respect of any liability incurred** by the assessee **for any expenditure and subsequently** during any previous year (hereinafter referred to as subsequent year) **the assessee makes payment** in respect thereof, otherwise than by an account payee cheque drawn on a bank or account payee bank draft/ECS, the payment so made shall be deemed to be the profits and gains of business or profession and accordingly chargeable to income-tax as income of the subsequent year if the payment or aggregate of payments made to a person in a day, exceeds Rs.10,000/- .

Clause 21(e): Provision for payment of gratuity not allowable under Section 40A(7);

○ Section 40A(7)-

- Subject to the provisions of Clause (b), **no deduction shall be allowed in respect of any provision** (whether called as such or by any other name) made by the assessee for the payment of gratuity to his employees on their retirement or on termination of their employment for any reason.
- Nothing in Clause (a) shall apply in relation to any provision made by the assessee for the purpose of payment of a sum by way of any contribution towards an approved gratuity fund, or for the purpose of payment of any gratuity, that has become payable during the previous year

Clause 21 – Expenditure relating to exempted Incomes

(10/11)

Section 14A:

- (1) For the purposes of computing the total income under this Chapter, no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income which does not form part of the total income under this Act.
- (2) The Assessing Officer shall determine the amount of expenditure incurred in relation to such income which does not form part of the total income under this Act in accordance with such method as may be prescribed¹⁷, if the Assessing Officer, having regard to the accounts of the assessee, is not satisfied with the correctness of the claim of the assessee in respect of such expenditure in relation to income which does not form part of the total income under this Act.

Clause 21 – Interest on Capital borrowed (11/11)

Clause 21(i): Amount inadmissible under the proviso to Section 36(1)(iii).

- Section 36(1)(iii) –

- The amount of the interest paid in respect of capital borrowed for the purposes of the business or profession would be allowed as a deduction in computing the income referred to in Section 28 of the Act.
- **Provided** that any amount of the interest paid, in respect of capital borrowed for acquisition of an asset ~~for extension of existing business or profession~~ (whether capitalized in the books of account or not); for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use, shall not be allowed as deduction. – AS -16 – Borrowing Cost
- Note: The requirements of this sub-clause are applicable in respect of capital borrowed for acquisition of an asset for extension of the existing business or profession.

Clause 22 – Interest inadmissible - MSME

Clause 22:

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

Section 23 of the Micro, Small and Medium Enterprises Development Act, 2006 : lays down that an interest payable or paid by the buyer, under or in accordance with the provisions of this Act, shall not for the purposes of the computation of income under the Income-tax Act, 1961 be allowed as a deduction.

Tax Auditor need to Report:

- The tax auditor needs to report the amount of interest inadmissible under Section 23 of the MSMED Act, 2006 ***irrespective of whether the amount of such interest has been debited to Profit and Loss Account or not.*** In case the auditee has adopted mercantile system of accounting, the non-provision may affect true and fair view and the auditor should give suitable qualification.
- The tax auditor should verify that TDS under Section 194A is deducted from interest credited/ paid to MSEs and deposited with Central Government. [Clause 34 of Form No.3CD]

Clause 23 – Payments to Specified Persons

Clause 23

- Any expenditure incurred by an Assessee towards supply of Goods, Services, Facilities from specified persons should be reported.

Tax Auditor Shall report:

- 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).
- If information is **not available** about specified persons with the client, **suitable disclaimer may be given. MRL**
- **Amounts to be reported whether or not debited to Profit & 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 23 – Payments to Specified Persons

Other Important Terms:

- “**Specific Person**” means relative, partners, members, directors or person having substantial interest.
- A person will be deemed to have a **substantial interest** in a business or profession if, (in case of a company) the person is beneficially owning the shares (other than the preference shares), carrying not less than 20% of the voting power and in any other case, person is entitled to not less than 20% of the profits of Business or Profession.
- Sec 40A(2) – Payment to Specific Persons is of the opinion that such payments is excessive or unreasonable having regard to the market value of goods or services or benefits derived there from. Then disallowance is excessive or unreasonable amount.

Clause 24 – Deemed Profits & Gains



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

- Section 32AC (2) or 32 AD of the Act provides that if any of the plant and machinery on which deduction claimed u/s32AC(1)/(1A) has been sold/transferred within a period of 5 years the deduction allowed is deemed as Income in year of sale, except in case of merger, as profits and gains of business.

The auditor is required to report such deemed income if any interest of section 32AC(2) or 32AD.

The auditor is required to report the deemed income chargeable as profits and gains of business under the circumstances specified in sub-sections (2) of S. 32AC. Only because S. 32AC(2) provides for chargeability of deemed income under the head “profit and gains from business or profession” in addition to taxability of capital gains, the auditor is not required to report any capital gains/losses arising on transfer on the said asset. The tax auditor will be required to verify the compliance to the conditions of the provisions of S. 32AC and report the claim of deduction accordingly.



Section 33AB

- It allows deduction in respect of Tea Development Account, Coffee Development Account and Rubber Development Account.
- It further provides that in case the amounts are drawn and not utilized for the purpose it is intended; are withdrawn on account of closure of business etc., then such amounts are taxable in the year of withdrawal.

The auditor is required to report

- The auditor is required to report the deemed income chargeable as profits and gains of business under the circumstances specified in sub-sections (4), (5), (7) and (8) of section 33AB.
- In case of respective industries where these are applicable special deductions are allowable.

Clause 24 – Deemed Profits & Gains



Section 33ABA

- It allows deduction in respect of Site Restoration Fund.
- It further provides that in case the amounts are drawn and not utilized for the purpose it is intended; are withdrawn on account of closure of business etc., then such amounts are taxable in the year of withdrawal.

The auditor is required to report

- The auditor is required to report the deemed income chargeable as profits and gains of business under the circumstances specified in subsections (5), (7) and (8) of section 33ABA. Where deduction has been claimed with respect to interest credited in Special Account or the Site Restoration Account, utilization of withdrawal thereof for purposes other than those specified shall be deemed to be income from business.

Clause 24 – Deemed Profits & Gains



Section 33AC

- It allows deduction in respect of reserve created out of the profit of the assessee engaged in shipping business to be utilized in accordance with the provision of sub-section (2) of section 33AC

The tax auditor is required to report

- The deemed income as chargeable as profits and gains of business under the circumstances specified in sub-sections (3) and (4) of section 33AC for the amount of reserves created on or before 31st March, 2004. However, consequent to the amendment made by the Finance (No. 2) Act, 2004, no deduction shall be allowed under section 33AC for any assessment year commencing on or after 1st day of April, 2005.

- ICAI Guidance Note suggests that the tax auditor should maintain the following information in his working papers for the purpose of reporting in the format provided in the e-filing utility.

Section	Description	Amount in Rs.

Clause 25 – Profit chargeable u/s 41

Clause 25

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

Tax auditor shall report

- Loss of the Previous Year in which business ceased to exist can be set off from the above deemed profit u/s 41.
- State Profit chargeable to Tax under this Clause, irrespective of the relevant amount credited to P&L A/c or not.
- Any amount already credited in P&L A/c is to be reported in this Clause.
- Computation of chargeable profit to be reported in this Clause.

S.No.	Name of the Person	Amount of Income	Section	Description of Transaction	Computation if any;

Clause 26 - Reporting u/s 43B



In respect of any sum referred to in Clause (a), (b), (c), (d), (e) or (f) (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;

S.No.	Section	Nature of Liability	Amount

(b) Not paid during the Previous Year

S.No.	Section	Nature of Liability	Amount

Clause 26 - Reporting u/s 43B

B. Was incurred in the Previous Year and was

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

S.No.	Section	Nature of Liability	Amount

(b) Not paid on or Before the aforesaid date

S.No.	Section	Nature of Liability	Amount

Clause 27 – Details of CENVAT Credits



Clause 27(a):

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

Verification & Reporting requirements:

- Verification of reconciliation statement of Balance of CENVAT in Account and relevant records
- **Reporting requirement under Clause 14(b) of form no. 3CD (Valuation of Closing Stock)** is a requirement distinct & separate from reporting requirement under this Clause.

Clause 28: Shares received without/inadequate consideration

Nature of Item	Response
<p>Whether during the previous year the assessee has <u>received any property, being share</u> of a company not being a company in which the public are substantially interested, without consideration or for inadequate consideration as referred to in <u>Section 56(2)(viiia)</u>, if yes, please furnish the details of the same.</p>	<p>This is applicable in case of Firms or Private Limited Company. The auditor has to report about any property received as a share from above assessee without consideration or inadequate consideration.</p> <p><u>Section 56(2)(viiia)</u></p> <p>If the firm or Pvt Ltd Company (which stock not traded publicly on regular basis) receives shares without/ inadequate consideration then;</p> <ul style="list-style-type: none">• If no consideration : $FMV > 50,000$, then FMV is taxable• If inadequate consideration : Such consideration – $FMV > 50,000$ then such difference is taxable.

Clause 29 - Issues of shares > FMV



- 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.
- ✓ **Auditor shall maintain the following Information:**

S.No (a)	Name & status of person to whom shares have been issued (b)	PAN of person, if available (c)	Nature of shares (quoted in RSE/quoted in URSE/unquoted equity shares etc) (d)	No. of shares issued (e)	Consideration received (f)	F.M.V. as per rule 11UA (1)(c)/ 11UA (2) (g)	Face value of shares issued (h)	Amount taxable u/s 56(2) (viib) (report the difference (e)-(f) only if (e) is > than (g) else report 'N.A.') (i)
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Clause 29- Issues of shares > FMV- Auditor Role

- This clause applicable only to Private Limited Companies.
- **Obtain a list of shares issued to any person** being a resident and verify the same from the books of account and other relevant documents.
- Provisions of Rule 11UA(1) & 11UA(2) should be considered to determine FMV.
- Reporting of Amount Chargeable u/s 56(2)(ix) as income from other sources.
- Where the consideration of the share is greater than Face value of the share, the difference of aggregate consideration received for such shares & FMV of shares, shall be chargeable to income tax u/h 'income from other sources'.
- Where for determining the fair market value of unquoted equity shares, a valuation report has been obtained by the assessee from a merchant banker or an accountant, the auditor should obtain a copy of the same. Here, attention is invited to the Standard on Auditing-620 "Using the work of an Auditor's expert".
- Provisions of this Clause are not applicable where the consideration is received
 - by a venture capital undertaking from a venture capital co./fund
 - by a co. from a class/classes of persons as may be notified by the CG in this behalf.

Clause 29B - Income from other sources

Clause 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:
- Nature of income
 - Amount thereof

Clause 29B

- (a) Whether any amount is to be included as income chargeable under the head 'income from other sources' as referred to in clause (x) of sub-section (2) of section 56? (Yes/No)
- (b) If yes, please furnish the following details:
- Nature of income – Money, Immovable/Movable property
 - Amount thereof

Clause 30 – Amount borrowed on Hundi

- 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]

S. No	Name of the person from whom amount borrowed or repaid on hundi	PAN of the person, if available	Address with State & Pin code	Amount Borrowed	Date of Borrowing	Amount due including interest	Amount Repaid	Date of Repayment

Clause 30A – Transfer Pricing Adjustments

Clause 30A – new clause inserted vide CBDT notification w.e.f. 20.08.2018

(a) Whether primary adjustment to transfer price, as referred to in sub-section (1) of section 92CE, has been made during the previous year? (Yes/No)...

- if Yes, Please provide the following details:

Clause No. of Section 92CE	Amount of Primary Adjustment

- Whether the excess money available with the associated enterprise is required to be repatriated to India as per the provisions of sub-section (2) of section 92CE? (Yes/No)
- If **Yes**, whether the excess money has been repatriated within the prescribed time (Yes/No)
- If **No**, the amount (in Rs.) of imputed interest income on such excess money which has not been repatriated within the prescribed time:

Clause 30B – Interest Expenditure >Crore

Clause 30B – new clause inserted vide CBDT Notification w.e.f. 20.08.2018

Whether the assessee has incurred expenditure during the previous year by way of interest or of similar nature **exceeding one crore rupees** as referred to in sub-section (1) of section 94B? (Yes/No.)

- If Yes, please furnish the following particulars

Interest Expenditure	EBITDA	% of Interest to EBITDA	Amount of Interest Exceeding 30% to EBITDA	
Details			Assessment Year	Amount
Interest Expenditure Brought Forward				
Interest Expenditure Carried Forward				

Clause 30 C – Impermissible Avoidance Agreement - GAAR

Clause 30C

(a) Whether the assessee has entered into an impermissible avoidance arrangement, as referred to in section 96, during the previous year? (Yes/No.)

- If yes, please specify:—
 - (i) Nature of impermissible avoidance arrangement:
 - (ii) Amount (in Rs.) of tax benefit in the previous year arising, in aggregate, to all the parties to the arrangement

GAAR Applicability :

In case the **Tax effect is > Rs.3.00crores**

- The above provision does **not apply** to a transactions on which **ruling from AAR has obtained.**

Clause 31

Nature of Item	Response
<p>Reporting requirement:</p> <p>a) Particulars of each loan/ deposit which exceeds the limit U/s 269SS.</p> <p>b) Particulars of each “specified sum” which exceeds the limit U/s 269SS during previous year.</p> <p>c) Particulars of each <u>repayment of loan/deposit</u> ‘made’, exceeding the limit U/s 269T during previous year.</p> <p>d) Particulars of each repayment of loan/deposit ‘received’, exceeding the limit U/s 269T <u>otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account</u> during previous year.</p> <p>e) Particulars of each repayment of loan/deposit ‘received’, exceeding the limit u/s 269T <u>received by cheque or bank draft which is not an account payee cheque or bank draft during the previous year.</u></p>	<p>The changes in this clause includes the reporting about the amendments effected in section 269SS and 269ST vide Notification vide No.58/2017 dated 3rd July, 2017 *</p> <p>It requires reporting by the recipient of such loan and deposits or specified advance which has been repaid</p> <p>It has increased the scope of reporting for section 269SS and 269T</p> <p>e. for the words “taken or accepted”, the word “repaid” shall be substituted</p> <p>e. After the words “amount of”, the words “repayment of” shall be inserted</p> <p>f. After the words “amount of”, the words “repayment of” shall be inserted.</p>

Clause 31(b)

Insertion of New Clauses in Income Tax Audit Report Form No. 3CD

New Clause

Reporting details of each cash **receipt or payment** in excess of the limit specified under section 269 ST:

(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:—

(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 occasion from a person, received by a cheque or bank draft, not being an account payee cheque or an account payee bank draft, during the previous year:—

(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 occasion to a person, otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year

(bd) Particulars of each payment in an amount exceeding the limit specified in section 269ST, in aggregate to a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion to a person, made by a cheque or bank draft, not being an account payee cheque or an account payee bank draft, during the previous year

Clause – 31 -Cash Receipts and Payments

Particulars	269SS	269T	269ST
Scope of the section	Receipt of loans, deposits and specified sum	Payments of loans or deposits specified sum	No person should receive in cash in or relation to: <ul style="list-style-type: none"> • in aggregate from a person in a day; • in respect of a single transaction ; or • in respect of transactions relating to one event or occasion from a person
Applicability of this section	Any Person taking or accepting	Any person paying	Any person receiving any amount
Monetary Limit	INR 20,000	INR 20,000	INR 2,00,000
Penalty	U/s 271D	271E	271DA
		100%	



Examples of 269ST - Violation

In aggregate from a person in a day

- Mr. A transfers' immovable property worth Rs.5,00,000 to Mr. B and generates 5 different bills of Rs.1,00,000 each and accepts cash in a single day at different times;

a single transaction

- Mr. A transfers' immovable property worth Rs.5,00,000 to Mr. B and generates one single bill for Rs.5,00,000. He then receives cash Rs.1,75,000 on Day 1, Rs.1,75,000 on Day 2 and Rs.1,50,000 on Day 3 then;

One event or occasion

- Mr. A books a wedding party at a hotel and the hotel makes a bill of Rs.1,50,000 for Food and Rs.1,00,000 for Hall Charges and accepts cash Rs. 2,50,000 from Mr. A then;
- Even if they are 2 different types of expenses but for the same wedding.

269ST may become apply

Sale proceeds of Goods or Services; movable or immovable properties

Advance against sale of goods/provision of service

Hospitals, Educational Institutions etc.,

Advance taken or reimbursement of expenditure

Withdrawal of capital/ Profit in Firm
Introduction of capital by partner in Firm; issue of share capital

Recovery of Loan and interest

Gift in Cash and gift from a relative also covered.

Donations received by Trust

Notional Income

Where immovable property say land and building is received in form of Gift, the taxability is as follows :

Particulars	56(2)(vii)	56(2)(x)
Provision in force	Till 31.03.2017	On or after 01.04.2017
Recipient	Individuals and HUF	All assessee
TAXABILITY : If the asset is received		<u>Taxable Value :</u>
Without consideration i.e., Stamp duty value > Rs. 50,000		<ul style="list-style-type: none"> Stamp duty value
With Consideration less than stamp duty value by an amount exceeding Rs. 50,000		<ul style="list-style-type: none"> Stamp duty value of property as exceeds consideration as per the Act
<u>Gifts received from following are not taxable:</u>		
➤ Relative		➤ Under will / by Inheritance
➤ On occasion of marriage of individual		➤ Local Authority
➤ In contemplation of death of payer or donor		➤ Trust or Institution registered U/s12AA

Clause 32 – Brought Forward Loss/Depreciation



Clause 32(a): Details of Brought forward loss or depreciation allowance to the extent available

S. No	Assessment Year	Nature of loss/ allowance	Amount as returned	Amount as assessed		Remarks
				Amount	Order u/s & date (according to E-utility)	

Clause 32 – Brought Forward Loss/Depreciation



Clause 32(b): Whether a change in shareholding of the company has taken place in the previous year due to which the losses accrued prior to the previous year cannot be allowed to be carried forward in terms of section 79.

Other Points:

- This Clause is not applicable when 51% of the voting power is held by the same persons at the last day of P.Y. & the last day of P.Y. in which loss was incurred.
- This provision also shall not apply to a change in the voting power consequent upon:
 - the **death of a shareholder**, or
 - on account of transfer of shares by way of **gifts to any relative** of the shareholder making such gift..
 - any change in the shareholding of an Indian company **which is subsidiary of a foreign company arising as a result of amalgamation or demerger of a foreign company subject to** the condition that 51 % of the shareholders of the amalgamating or demerged foreign company continue to remain the shareholders of the amalgamated or the resulting foreign company.
- However, the overriding provisions of sec.79 do not affect the set off of **unabsorbed depreciation** (section 32(2)). [Refer **CIT v Concord Industries Ltd. (1979) 119 ITR 458 (Mad)**], **CIT v. Shri Subbulaxmi Mills Ltd. 249 ITR 795 (SC)**].

Clause 32 – Brought Forward Loss/Depreciation



- **Clause 32(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.
- **Clause 32 (d)** : Whether the assessee has incurred any loss referred to in section 73A in respect of any specified business during the previous year, if yes, please furnish details of the same.
- **Clause 32 (e)** : In case of a company, please state that whether the company is deemed to be carrying on a speculation business as referred in explanation to section 73, if yes, please furnish the details of speculation loss if any incurred during the previous year.

The auditor shall report:

- Scrutinize the books of account and other relevant documents as to whether the assessee is carrying on any speculation business.
- Applicability of provisions of Sec. 73 in case of loss in trading of derivatives being shares and stocks.
- Whether the term “Speculative Business” should be r.w. the term “Speculative Transactions”

Clause 33 – Deductions u/c VI A or u/c III

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.

- Chapter VIA of the Act deals with **Deductions** in respect of **Certain Payments**, deduction in respect of **Certain Incomes, & Other Deductions** which have to be given effect to by the way of allowance from gross total income of the assessee.
- Chapter III relates to income which do not form part of total income, the reporting under this Clause is required only with respect to exemptions claimed :
 - **u/s 10A** (Special provision in respect of newly established undertakings in free trade zone, etc.) &
 - **u/s 10AA** (Special provisions in respect of newly established Units in Special Economic Zones)
 - **W.e.f 01.04.2018, the amount of deduction under this section shall be allowed as Deduction from the total Income of the assessee instead of exemption.**

Clause 34 – Tax deduction/collection at source



- **Clause 34(a)** Whether the assessee is required to deduct or collect tax as per the provisions of Chapter XVII-B or Chapter XVII-BB, if yes please furnish:

No.	Tax deduction and collection Account Number (TAN)	Section	Nature of payment	Total amount of payment or receipt of the nature specified in column (3)	Total amount on which tax was required to be deducted or collected out of (4)	Total amount on which tax was deducted or collected at specified rate out of (5)	Amount of tax deducted or collected out of (6)	Total amount on which tax was deducted or collected at less than specified rate out of (7)	Amount of tax deducted or collected on (8)	Amount of tax deducted or collected not deposited to the credit of the Central Government out of (6) and (8)
1										

Clause 34 – Tax deduction/collection at source



Clause 34(b)

Whether the assessee has furnished the statement of tax deducted or tax collected. If yes, please furnish the details.

Reporting details of transactions not disclosed / specified in form 61/ 61 A/ 61 B

Tax Auditor shall report:

- Such details are required to provide, even if the assessee does not have any TDS defaults to show the assessee has complied with TDS wherever necessary.
- The Tax Auditor cannot merely rely on information provided by the client but have to examine books of account to determine the transaction on which provisions of Chapter-XVII B and Chapter XII BB apply.
- Whether it is practically possible for the tax auditor to verify all the transactions to report compliance with provisions of Chapter XVII-B or XVII-BB, where the tax audit is time bound like in Banks.
- Auditor is required to get a copy of **justification report (downloaded from traces)**, when noticed that there are TDS defaults.

Tax deduction and collection Account Number (TAN)	Type of form	Due date of Furnishing	Date of Furnishing , if Furnished	Whether statement of tax deducted or collected contains information about all transactions which are required to be reported
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Clause 34 – Tax deduction/collection at source



- **Clause 34(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	
		Amount	Date of Payment

Detail in respect of interest u/s 201(1A) & 206C(7), if any to be provided:

- (i) Levy of simple interest at 1% for every month or part of month on the amount of TDS from date of tax deductible to the actual date of TDS deducted (**failure to deduct the TDS**).
- (ii) Levy of simple interest at 1.50% for every month or part of month on the amount of TDS from date of tax deducted to the date of TDS actually Paid (**failed to pay the TDS within the due date**).
- **Sec. 206C(7)**- Levy of simple interest at 1% on amount of TCS actually collectible to the date on which tax actually paid (**failure to collect**).

Clause 35 – Trading Concern Quantitative Details

Clause 35(a):
In the case of a trading concern, give quantitative details **of principal items** of goods traded:

Tax Auditor shall report

- The tax auditor should **obtain certificates from the assessee in respect of the principal items of goods traded**, the balance of the opening stock, purchases, sales and closing stock and the extent of shortage/ excess/damage and the reasons thereof.
- As required by SA-501 “Audit Evidence - Additional considerations for specific items”, the tax auditor (if he is issuing Form No. 3CB also) **should attend the physical stock-taking conducted by the management if the inventories are material unless such attendance is impracticable due to matters such as nature and location of the inventory.**

Item name	Unit Name	Opening stock	Purchases during the previous year	Sales during the previous year	Closing Stock	Shortage/ excess, if any

Clause 35 – Trading Concern Quantitative Details



- **Clause 35(b):** In the case of a manufacturing concern, give quantitative details of **principal items** of raw materials, finished goods, by-products

(A) Raw Materials

(B) Finished Goods

(C) By-Products

Item name	Unit name	Opening stock	Purchases during the previous year	Consumption during the previous year	Sales during the previous year	Closing Stock	Yield of finished products	Percentage of yield	Shortage / excess, if any

“Principal Items” :- Items which constitute > 10% of the aggregate value of purchase, consumption or turnover.

Clause 36 – Tax on Distributed Profits



- In the case of a domestic company, details of tax on distributed profits under section 115-O in the following form :-

Total amount of distributed profits	Amount of reduction as referred to in sec. 115-O(1A)(i)	Amount of reduction as referred to in sec. 115-O(1A)(ii)	Total tax paid thereon	Date of payment with amounts	
				Amount	Date of payment

Sec. 115O(1A)- Amount of dividend to be reduced by

- (i)** The amount of dividend, if any, received by the domestic company and/or foreign company being subsidiary during the financial year, provided such company has declared dividend under sections of the act. Also the reduction cannot be more than once.
- (ii)** The amount of dividend, if any, paid to any person for, or on behalf of, the New Pension System Trust referred to in Clause (44) of Section 10.

Clause 36 – Tax on Distributed Profits



- 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:—
 - Amount received (in Rs.)
 - Date of receipt

Clause 37 – Cost Audit

Clause 37

Whether any cost audit was carried out, if yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the cost auditor.

The auditor shall report:

- The Auditor need **not express any opinion** if such Audit is ordered and not conducted.
- The Auditor should **state the fact in his report** if such Audit which has been ordered is not completed by the time he issues his Audit Report.
- **Make note of any material observation** made in such Report.
- Give **information only for that Cost Audit Report** which falls within the relevant Previous Year.

Clause 38 – Central Excise Audit

Clause -38

Whether any audit was conducted under the Central Excise Act, 1944, if yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the auditor.

Tax Auditor shall report

- Tax auditor is not required to study the Central Excise audit report in detail. However, **he should take note of any material observation made in such Central Excise audit report** which may have relevance to the tax audit conducted by him.
- **If excise audit ordered is not completed** by the time tax auditor gives his report, then he shall **state the same in his report.**
- Auditor is supposed to furnish information in respect of excise audit report the time period of which falls within the relevant PY.

Clause 39 – Audit U/s 72A- Valuation of Taxable Services

Whether any audit was conducted under section 72A of the Finance Act,1994 in relation to valuation of taxable services, if yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the auditor.

Special Audit

(1) If the Commissioner of Central Excise, has reasons to believe that any person liable to pay service tax (herein referred to as "such person"),—

- i. has failed to declare or determine the value of a taxable service correctly; or
- ii. has availed and utilised credit of duty or tax paid—
 - a) which is not within the normal limits having regard to the nature of taxable service provided, the extent of capital goods used or the type of inputs or input services used, or any other relevant factors as he may deem appropriate; or
 - b) by means of fraud, collusion, or any wilful mis-statement or suppression of facts; or
- iii. has operations spread out in multiple locations and it is not possible or practicable to obtain a true and complete picture of his accounts from the registered premises falling under the jurisdiction of the said Commissioner,

he may direct such person to get his accounts audited by a chartered accountant or cost accountant nominated by him, to the extent and for the period as may be specified by the Commissioner.

Form 3CD – Part B

Additions/Amendments in clauses	Nature of Item	Response
Clause 40	<p>The details required to be furnished for principal items of goods traded or manufactured or services rendered for <u>Previous year and Preceding previous years.</u></p> <ol style="list-style-type: none">1. Total turnover of the assessee2. Gross profit/turnover3. Net profit/turnover4. Stock-in-trade/turnover5. Material consumed/ finished goods produced	<p>Now, preceding years' data should also be provided in terms of ratios.</p> <p>In case, the earlier year's form 3CD was prepared and signed by someone else then a suitable note should be given, if relied on that.</p>
Clause 41	<p>Please furnish the <u>details of demand raised or refund issued during the previous year under any tax laws other than Income Tax Act, 1961 and Wealth tax Act, 1957</u> along with details of relevant proceedings</p>	<ul style="list-style-type: none">• The tax auditor shall obtain a copy of all the <u>demand/ refund orders</u> issued by Govt. authorities <u>during the previous year</u> under any other law apart from IT Act, Wealth Tax Act.• The cess /duty would not be covered.• Disclose the refund/demand orders received during PY, pertaining to PFY

- **Newly Inserted provisions vide CBDT Notification dated 33/2018**
- (a) Whether the assessee is required to furnish statement in Form No.61 or Form No.61A or Form 61B? (Yes/No)

Income tax Department Reporting Entity Identification Number(ITDREIN)	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 the details/transactions which are not reported.

- **FORM 61:** This is a form of declaration to be filled by a person who is responsible for filing information relating to a transactions mentioned in Rule 114B and receives from a person who does not have PAN in Form No. 60.(Please refer Rule 114C for complete details).

Form 61 A: As per section 285BA of the [Income-tax Act, 1961](#) (as substituted by Finance Act, 2014 w.e.f. 01-04-2015), specified entities (Filers) are required to furnish a statement of financial transaction or reportable account (hereinafter referred to as 'statement') in respect of specified financial transactions or any reportable account registered/recorded/maintained by them during the financial year to the income-tax authority or such other prescribed authority.

S.No.	Nature and value of Transaction	Class of Persons
1	(a) Payment made in cash for purchase of bank drafts or pay orders or banker's cheque of an amount aggregating to Rs. 10 lakh or more in a financial year. (b) Payments made in cash aggregating to Rs. 10 lakh or more during the financial year for purchase of pre-paid instruments issued by Reserve Bank of India. (c) Cash deposits or cash withdrawals (including through bearer's cheque) aggregating to Rs. 50 lakh or more in a financial year, in or from one or more current account of a person.	A banking company or a co-operative bank

Clause 42– Details of FORM 61/ 61A/61B

(3/6)

S.No.	Nature and value of Transaction	Class of Persons
2	Cash deposits aggregating to Rs. 10 Lakh or more in a financial year, in one or more accounts (other than a current account and time deposit) of a person.	i) A banking company or a co-operative bank (ii) Post Master General
3	One or more time deposits (other than a time deposit made through renewal of another time deposit) of a person aggregating to Rs. 10 lakh or more in a financial year of a person.	(i) A banking company or a co-operative bank (ii) Post Master General (iii) Nidhi Company (iv) Non-banking financial company
4	Payments made by any person of an amount aggregating to— (i) Rs. 1 lakh or more in cash; or (ii) Rs. 10 lakh or more by any other mode, against bills raised in respect of one or more credit cards issued to that person, in a financial year.	A banking company or a co-operative bank or any other company or institution issuing credit card.

Clause 42– Details of FORM 61/ 61A/61B

(4/6)

S.No.	Nature and value of Transaction	Class of Persons
5	Receipt from any person of an amount aggregating to Rs. 10 lakh or more in a financial year for acquiring bonds or debentures issued by the company or institution (other than the amount received on account of renewal of the bond or debenture issued by that company).	A company or institution issuing bonds or debentures.
6	Receipt from any person of an amount aggregating to Rs. 10 lakh or more in a financial year for acquiring shares (including share application money) issued by the company.	A company issuing shares.
7	Buy back of shares from any person (other than the shares bought in the open market) for an amount or value aggregating to Rs. 10 lakh or more in a financial year.	A company listed on a recognised stock exchange purchasing its own securities
8	Receipt from any person of an amount aggregating to Rs. 10 lakh or more in a financial year for acquiring units of one or more schemes of a Mutual Fund (other than the amount received on account of transfer from one scheme to another scheme of that Mutual Fund).	A trustee of a Mutual Fund or such other person managing the affairs of the Mutual Fund

Clause 42– Details of FORM 61/ 61A/61B

(5/6)

S.No.	Nature and value of Transaction	Class of Persons
9	Receipt from any person for sale of foreign currency including any credit of such currency to foreign exchange card or expense in such currency through a debit or credit card or through issue of travellers cheque or draft or any other instrument of an amount aggregating to Rs. 10 lakh or more during a financial year.	Authorised person as referred to in clause (c) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).
10	Purchase or sale by any person of immovable property for an amount of Rs. 30 lakh or more or valued by the stamp valuation authority referred to in section 50C of the Act at Rs.30 lakh or more	Inspector-General or Registrar or Sub-Registrar appointed under the Registration Act, 1908
11	Receipt of cash payment exceeding Rs. 2 lakh for sale, by any person, of goods or services of any nature (other than those specified at Sl. Nos. 1 to 10 of this rule, if any.)	Any person who is liable for audit under section 44AB of the Act.

Clause 42– Details of FORM 61/ 61A/61B

(6/6)

S.No.	Nature and value of Transaction	Class of Persons
12	Cash deposits during the period 9th November, 2016 to 30th December, 2016 aggregating to— (i) Rs. 12,50,000 or more, in one or more current account of a person; or (ii) Rs. 2,50,000 or more, in one or more accounts (other than a current account) of a person.	(i) A banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies (ii) Post Master General as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898
13	Cash deposits during the period 1st of April, 2016 to 9th November, 2016 in respect of accounts that are reportable under Sl.No.12 because cash deposited in this account between 9th November, 2016 to 30th December, 2016 aggregating to— (i) Rs. 12,50,000 or more, in one or more current account of a person; or (ii) Rs. 2,50,000 or more, in one or more accounts (other than a current account) of a person.	A banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies

Clause 43 – Furnishing of report in respect of International Group. - CBCR



Newly Inserted provisions vide CBDT Notification dated 33/2018

Whether the assessee or its parent entity or alternate reporting entity is liable to furnish the report as referred to in sub-section (2) of section 286? (Yes/No)

- If yes, please furnish the following details:

- (i) Whether report has been furnished by the assessee or its parent entity or an alternate reporting entity
- (ii) Name of parent entity
- (iii) Name of alternate reporting entity (if applicable)
- (iv) Date of furnishing of report

Clause 43 – Furnishing of report in respect of International Group.



Who need to furnish report?

- Every person, being a constituent entity of an international group.
- If the consolidated group revenue of the international group, as reflected in the consolidated financial statement of the international group for the accounting year, exceeds Rs. 500 Crore
&
- The aggregate value of international transactions :
 - During the accounting year, exceeds Rs. 50 Crore, or
 - In respect of the purchase, sale, transfer, lease or use of intangible property, exceeds Rs. 10 Crore.

Reporting

- Reporting of CBC Report in Form 3CEAD
- Reporting Master File in Form 3CEAA

Clause 44 – Total Expenditure Breakup - GST

Newly Inserted provisions vide CBDT Notification dated 33/2018

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

S.No.	Total Expenditure during year	Expenditure in respect of entities registered under GST				Expenditure relating to entities not registered under GST
		Relating to goods or Services Exempt from GST	Relating to Entities falling under composition Scheme	Relating to Other registered Entities	Total payment to registered entities	

Amendments and Detailed Analysis

- CBDT issued a notification No.33/2018 on 20th July 2018 amending the Tax Audit Report for the AY 2018-19.
- Notification effective date is 20th August 2018.
- Implications: Tax Audits filed with Income Tax Department after 20th of August 2018 should be filed with revised TAR.

Income Computation Disclosure Standards

Amended U/s 145(2), 10 ICDS notified vide notification 87/2016 dated 29th September, 2016 and Notified ICDS applicable from AY 2017-18.

ICDS	Name of the ICDS
I	Accounting Policies
II	Valuation of Inventories
III	Construction Contracts
IV	Revenue Recognition
V	Tangible Fixed Assets
VI	Changes in Foreign Exchange Rates
VII	Governments Grants
VIII	Securities
IX	Borrowing Costs
X	Provisions, Contingent Liabilities and Contingent Assets

Income Computation Disclosure Standards

Applicability:

- All assesses (*other than an individual and HUF not required to get accounts audited U/s. 44AB*) following mercantile system of accounting.
- All partnership Firms and LLP following mercantile system;
 - irrespective of whether audit required u/s 44AB or not
 - having “Income from business or Profession” and “Income from Other Sources

Non- Applicability:

- To individual/HUF not carrying on business or profession.
- Person with only income from other sources following Cash system of accounting.
- Not applicable where books of accounts not maintained.
- Persons following cash system of accounting.
- Individual/HUF falling under presumptive tax not subject to audit u/s 44AB –***CBDT Circular No. 10 of 2017 dated 23rd March 2017.***
- Other heads of income - computation of capital gain, House Property, etc.,
- For Sections 68, 69, 69A and 69B, books of account are relevant.

Other Points

- Tax auditor is required to certify that the computation of total income is made in accordance with the provisions of ICDS – (*accordingly the Form 3CD containing the details*).
- The net effect on the income due to application of ICDS is to be disclosed in the Return of Income.
- Best judgment assessment is made when A.O is not satisfied about:

U/s 144
is
attracted

1. Correctness or completeness of the accounts.

2. Method of accounting is not regularly followed.

3. Income not computed as per ICDS.

Income Computation Disclosure Standards

- Disclosure Requirement w.r.t Form 3CD

Under clause 13 "**New sub clause is added as under**"

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

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

ICDS	Name of ICDS	Increase in Profit (Rs)	Decrease in Profit (Rs)	Net Effect (Rs)

Income Computation Disclosure Standards

ICDS II – Valuation of Inventories: Disclosure Requirement:

- the accounting policies adopted in measuring inventories
- Where standard costing has been used as a technique for measurement the cost, details of such inventories and a confirmation of the fact that standard cost approximate actual cost; and
- the total carrying amount of inventories and its classification appropriate to a person
- Clause 13(f)(ii) of the Tax Audit Report.

“When the inventory valued without including duties & taxes, the same should be included in valuation of inventory as per ICDS “

Income Computation Disclosure Standards

ICDS III – Construction Contracts - Disclosure Requirement:

- The methods used to determine the stage of completion of contracts in progress.
- Clause 13(f)(iii) & (iv) of the Tax Audit Report.

S. No.	Description of Total Amount of	For the year ended
1.	Contract revenue recognized	
2.	Contract cost	
3.	Profit recognized	
4.	Advances received	
5.	Retention money	

Income Computation Disclosure Standards

ICDS IV – Revenue Recognition - Disclosure Requirement:

- for service transactions in progress at the end of previous year:
 - recognized profits less recognized losses up to end of previous year
 - the amount of advances received
 - the amount of retentions
- Clause 13(f)(iv) of the Tax Audit Report.

IMPLICATIONS OF UNACCOUNTED INCOME

TAX U/s 115 BBE of IT Act (A)

SEARCH U/s 132
(B)

(A.1)
Self-Declaration

(A.2)
Detected By AO

(B.1) Income Admitted Total Tax = 107.25% Incl. Cess & penalty)

(B.2) Income Not Admitted Total Tax = 137.25% (incl. Cess & penalty)

(A.1.1) Advance Tax Paid Total Tax = 77.25% (60% Tax + 25% sc + 3% cess)

(A.1.2) Advance Tax Not Paid Total Tax = 83.25% (+ Penalty U/s.271AAC @ 10% of Tax)

Things to remember

Books of Account: **Vouchers**
 Bills
 Records

MIS: **Cash Flow Statements**
 Profit & Loss Account
 Balance Sheet
 Periodical Statements/ Reports

Human Resources – HR Policies:
 Minimum Wages;
 EPF; ESI;
 Shops & Commercial
 Establishments;
 Bonus, Gratuity etc.,

FEMA; STPI & I E Code



Audits: **Statutory Audit**
 Internal Audit
 Tax Audit – ICDS
 IFC; IND AS etc.,

Income Tax & GST

Corporate Laws & Rules

Other Compliances:
 Advance Tax, TDS
 Transfer Pricing
 Professional Tax etc.,

Other Registrations & Filings;
 RERA

At

Tirupati Branch of SIRC of ICAI
17th August, 2018

Thank you!!!

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