

Tax Audit Series - Version 4.0

Chapter 4 – Clauses 1 to 8A



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Namaste

From Chapter - 4 onwards in this series, we would discuss practical aspects of reporting in clauses of Form 3CD. Form 3 CD (As amended by CBDT vide notification dated 5th March 2024 read with corrigenda dated 19th March 2024) is divided into two parts:

- Part A containing Clause Nos. 1 to 8A
- Part B containing Clause Nos. 9 to 44

For any clause, if any note or observation is required and there is no facility provided in the schema provided by the CBDT, then apart from stating the same in the hard copy of the tax audit report and particulars issued, also put the same in the Audit Report i.e.:

- Where Form 3 CA is issued – in Para 3
- Where Form 3 CB is issued – in Para 5

In this series we would be discussing Part -A – Clauses 1 to 8A

PART A

Clause 1: Name of the assessee

- In case of audit of a branch or proprietary concern, the name of the branch/proprietary firm respectively should be stated along with the name of the assessee/proprietor.
- Ensure that name as given under match with the income tax records especially PAN card, wherever feasible.
- If there is any change in the name of the assessee between the last day of the previous year and the date of tax audit report, then name as on the year end date should be stated in the tax audit report.
- In case of change in name of the company, e.g., conversion into Public Ltd Co or vice versa, name as on the year end date should be stated.
- The fact of name changes in either case should be clarified in the observations in Form 3CA / 3CB.

Clause 2: Address

- Mention the address which should be same as the one communicated by the assessee to the Income Tax Department.
- In case of a branch, the address of the branch should be stated.
- In case of a company, the address of the registered office should also be stated along with the principal place of business, if any.
- In case of a new assessee, the address should be that of the principal place of business.
- In case of change in address after the end of the financial year and before the date of tax audit, the fact may be brought on observations in Form 3CA / 3CB.

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- The address should be verified from available income tax records or profile available at income tax portal. The fact of changes or variation should be clarified in the observations in Form 3CA / 3CB

Clause 3: Permanent Account Number

- Quoting of PAN is mandatory hence, obtain the copy of PAN card.
- In case the assessee is having 2 PAN and one of them is not surrendered then mention the PAN on which Income Tax Return is filed and audit is being conducted. The other PAN details should be mentioned in Form 3CA/3CB.
- Apart from PAN, Aadhar Card number (for individuals only) should be mentioned in this column (though optional).

Clause 4: Registration numbers under applicable indirect taxes

- This clause has been amended vide CBDT notification dated 20th July 2018 to include GST.
- The auditor is required to mention the registration number or any other identification number or GST Number, if any, allotted, in case the assessee is liable to pay indirect taxes (CUSTOM, GSTIN, etc.)
- If the assessee has several branches and liable for registration, then such registration numbers for all branches has to be mentioned.
- The auditor should obtain from the assessee the list of indirect taxes applicable to him and also cross-check from the CARO Report (in case of Companies, if applicable) of the assessee.
- The auditor is required to obtain a copy of the registration certificate clearly mentioning the registration number under that relevant law.
- If the registration has not been obtained or the assessee is in process of obtaining the registration, then the said fact should be mentioned.
- In case the auditor prima facie is of the opinion that any indirect taxes laws are applicable on the business or profession of the assessee, but the assessee is not registered under the said law, **report** the same appropriately.
- Obtain written representation from the assessee regarding his registration in any of the indirect tax laws.

Clause 5: Status

- The status does not refer to the residential status, it means status of the person who is defined as per section 2(31) [i.e., Individual, HUF, Company, Firm, etc.]
- Firm for the purpose of this clause also includes Limited Liability Partnership (LLP).
- Foreign LLP would be covered under the category of “Company” as body corporate.

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Clause 6: Previous year

- Previous year for which the Tax Audit is carried out should be stated here.
- An assessee may follow different financial year; however, for the purpose of Income-tax, uniform previous year of 12 months ending on 31st March of each year is required to be followed.
- The starting date and ending date of the previous year should be given. In case business commenced during the year, the starting date should be given to the end of financial year.
- In case assessee expires (in case of individual) or converts into another status (company to LLP; firm/LLP into company) during the year, the starting date could be another than 1st April and /or end date could be different than 31st March. Take care that these fields are auto filled from Form 3CA / 3CB too.

Clause 7: Assessment Year

- Assessment Year (AY) in relation to the Previous Year (PY) as stated under S. No. 6 needs to be mentioned. For example, if PY is 2023-24, AY would be AY 2024-25.

Clause 8 : Applicable clause of S. 44AB triggering the tax audit

- Relevant clause of the section 44AB is to be mentioned under which the Audit has been conducted.
- While furnishing the Form online, the relevant clause of s. 44AB must be mentioned from the drop-down options mentioned. These are:
 - Clause 44AB(a) – Total sales/turnover/gross receipts of business exceeding specified limits.
 - The limit provided in the clause is Rs. 1 crore, which is converted to Rs. 10 Crs. if aggregate cash receipts and cash payments of business does not exceed 5% of the aggregate receipts and payments.
 - This clause is to be chosen when the above condition is met and report is to be issued in Form 3CB.
 - Clause 44AB(b)- Gross receipts in profession exceeding specified limits.
 - If gross receipts in profession exceed Rs.50 lakhs.
 - This clause is to be chosen when the above condition is met and report is to be issued in Form 3CB.
 - Clause 44AB(c)- i- Profits and gains lower than deemed profit u/s 44AE
 - For any person, engaged in business of plying, hiring or leasing goods carriage not more than 10 goods carriage vehicles and declaring less than deemed profits.
 - This clause is to be chosen when the above condition is met and report is to be issued in Form 3CB.
 - Clause 44AB(c)- ii- Profits and gains lower than deemed profit u/s 44BB

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- For Non-Resident, engaged in business of exploration of mineral oils and declaring less than deemed profits.
- This clause is to be chosen when the above condition is met and report is to be issued in Form 3CB.
- Clause 44AB(c)- iii- Profits and gains lower than deemed profit u/s 44BBB
 - For Foreign Company, engaged in business of Turnkey Power Projects and declaring less than deemed profits.
 - This clause is to be chosen when the above condition is met and report is to be issued in Form 3CB.
- Clause 44AB(d)- Profits and gains lower than deemed profit u/s 44ADA.
 - For Individual & firm (other than LLP), if Profits u/s 44ADA claimed to be lower than the presumptive profits and gains and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year.
 - This clause is to be chosen when the above condition is met and report is to be issued in Form 3CB.
- Clause 44AB(e) –When provisions of section 44AD(4) are applicable
 - For Individual, HUF & Firm (other than LLP) If section 44AD(4) is applicable and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year.
 - This clause is to be chosen when the above condition is met and report is to be issued in Form 3CB.
- Third proviso to s.44AB - Audited under any other law
 - A person may be required to get the audit done under any of the above clauses of s. 44AB
 - However, where such person is required to get his accounts audited under any other law, then this clause is to be chosen.
 - Hence, this clause is to be chosen when report is to be issued in Form 3CA.
- Clause 44AB(a)- Proviso where aggregate cash receipts and cash payments of business exceeds specified limits.
 - The proviso to section 44AB(a) provides that if aggregate cash receipts and cash payments of business does not exceed 5% of the aggregate cash receipts and cash payments (refer Chapter 1 of this series), then the limit as given in s. 44AB(a) changes from Rs. 1 Cr to Rs. 10 Crs.
 - Hence, a view emerges out, that the proviso provides a condition and limit where tax audit is not required at all. Hence, this clause given in the drop down in the schema should not be chosen to conduct tax audit.

It is pertinent to note that while generating UDIN choose the same clause as chosen in clause 8 of Form 3CD.

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Clause 8A – Option u/s 115BA/115BAA/115BAB/115BAC/ 115BAD

- Clause 8A has been modified on 5th March 2024 to include if the assessee is exercising the of option u/s 115BAE (new concessional rates for manufacturing co-operative societies introduced by Finance Act 2023) with already existing 115BA / 115BAA / 115BAB / 115BAC / 115BAD.
 - Taxpayer being an individual or HUF can go for new option u/s 115BAC when he opts to pay income tax under the new tax regime (now being the default tax regime); wherein there are lower tax rates but does not allow certain deductions and exemptions; or
 - Taxpayer being a Resident Co-operative Society can go for new option u/s 115BAD providing a benefit of a lower tax rate of 22% but subject to non-availing for certain deductions and exemptions and other conditions.
 - Taxpayer being a Resident Manufacturing Co-operative Society can go for new option u/s 115BAE providing a benefit of a lower tax rate of 15% but subject to non-availing for certain deductions and exemptions and other conditions.
 - Auditor should ensure to obtain a copy of Form 10-IB / 10-IC / 10-ID / 10-IE / 10-IF for opting to apply section 115BA / 115BAA / 115BAB / 115BAC / 115BAD / 115BAE respectively and report accordingly.

I hope this document is of use to you. I thank CA. Shreya Jain in assisting me to compile this part of the series. Your suggestions and comments would be highly appreciated

Best Regards

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EARLIER CHAPTERS

Chapter No.	Title	Link
1	Applicability	http://lunawat.com/Uploaded_Files/Attachments/F_20303.pdf
2	Turnover	http://lunawat.com/Uploaded_Files/Attachments/F_20304.pdf
3	Audit Report Format	http://lunawat.com/Uploaded_Files/Attachments/F_20305.pdf

(Disclaimer: Though full efforts have been made to state the interpretations correctly, yet the author is not responsible / liable for any loss or damage caused to anyone due to any mistake / error / omissions)

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ABOUT CA. PRAMOD JAIN

He is a commerce graduate [B. Com (H)] from Shri Ram College of Commerce (SRCC). He is a fellow member of the Institute of Chartered Accountants of India (FCA). He is a fellow member of the Institute of Companies Secretaries of India (FCS). He is a fellow member of the Institute of Cost Accountants of India (FCMA). He is a Bachelor of Law (LL. B). He is qualified as an Information System Auditor [DISA (ICAI)]. He is also a member of All India Management Association (MIMA). He is also an Insolvency Professional (IP). He has also passed the Certificate Course on CSR of ICAI. He has also passed the Proficiency Self-Assessment Test for Independent Director's Databank. He has passed certification course NCFM of National Stock Exchange of India (NSE). He has also done certification course CAAT and post qualification certificate course on Valuation of ICAI.

He is elected as Central Council Member of ICAI for 2 consecutive terms from 2019 to 2025. Apart from being member in more than 25 committees / groups / directorates of ICAI, and other Bodies he is / was:

- Chairman of Accounting Standards Board (ASB) of ICAI for 3 years from 2022 to 2025
- Deputy Convenor of Centre for Audit Quality Directorate (CAQD) for 2024-25
- Convenor - Members & Students (Grievances Handling & e-Sahayata) Directorate for 2023-24
- Chairman of Accounting & Finance Services Sectional Committee SSD-12 under the Services Sector Division Council (SSDC) of Bureau of Indian Standards (BIS) for 2023-24
- Chairman of Expert Advisory Committee (EAC) of ICAI for Year 2022-23
- Co-Chairman of Corporate Affairs Committee of PHDCCI for the year 2022-23
- Chairman of Committee on International Taxation (CITAX) of ICAI for 2021-22
- Chairman of Taxation Audit Quality Review Board (TAQRB) of ICAI for 2021-22.
- Member of Quality Review Board (QRB) for 2 terms from 2020 to 2026.
- Member of the SME Implementation Group (SMEIG) of IFRS Foundation, UK for 3 years from 2023 to 2026.
- Chairman of Valuation Standards Board (VSB) of ICAI for the year 2020-21.
- Chairman of CSR Committee of ICAI for year 2020-21.
- Vice-Chairman of Committee on MSME & Start-up of ICAI for the year 2021-22.
- Vice-Chairman of Women Members Empowerment Committee (WMEC) of ICAI for 2021-22.
- Vice-Chairman of Direct Tax Committee (DTC) of ICAI for 2 years from 2019 to 2021.
- Vice-Chairman of Committee on International Taxation (CITAX) of ICAI for 2019-20.
- Member of ICAI Disciplinary Committee for the year 2020-21.

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He is the conceptualizer of the portal www.expertspanel.in which is a one stop solution for all professional queries which has given around 36500 answers since its launch in mid of year 2018.

He has delivered more than 1700 lectures and articles on various topics of Income Tax, Corporate Laws, LLP, Audits, Peer Review, Quality Review, etc. at more than 200 forums throughout the country. Most of his presentations and articles since 2013 are available for free download from www.lunawat.com and from 2018 at www.expertspanel.in also.

He is Senior Partner of **M/s LUNAWAT & CO.**, Chartered Accountants. He is president, founder convener and member of various Boards, Directorate, Committees, Study Circles, etc. of ICAI, ICSI and other prestigious bodies and associations. He has been a Technical Reviewer with Financial Reporting Review Board (FRRB) and Quality Review Board (QRB) and Peer Reviewer with Peer Review Board (PRB).

He has authored books on “*Chartered Accountant’s Documentation and Compliance for Audits and Reviews*”, “*Limited liability Partnership – A Complete Resource Book*”, “*Chartered Accountant’s Documentation and Compliance for Audits and Reviews*”, “*Importance of LLP after Companies Act, 2013*”, “*Chartered Accountant’s Documentation and compliance under Companies Act 2013, Peer Review and Quality Review*”, “*Limited Liability Partnership – Law, Procedures and Taxation*”, “*Documentation for Chartered Accountants*”, “*Limited Liability Partnership – Law and Procedures with Ready Reckoner*”, “*Fringe Benefit Tax & Banking Cash Transaction Tax*”, “*Documentation for Audits*” and “*Accounting Standards and CARO*”.

He has written various articles on taxation, company law and audit in various journals. He has vast practical experience in income tax, audit, corporate laws and LLP.