

# Tax Audit Series – Version 4.0

## Chapter 8 – Clauses 16 - 17



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Namaste

In Chapter - 8 we would discuss the Particulars of Form 3CD – Part B – Clauses 16 and 17.

### **Clause 16: Amount not credited to Profit & Loss Account**

#### **Requirement**

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

- Not credited the said items to profit & loss account and also omitted from books of account:
  - Under this situation auditor is required to obtain written representation w.r.t. all the items under this clause and also the reasons for not crediting the same.
- Crediting the said items in the books of account but not to the profit & loss account.

#### **Clause 16 (a): The items falling within the scope of section 28:**

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

#### **Clause 16 (b): Specific claims**

- Under this clause, the details of the following claims, if admitted as *due* by the concerned authorities but not credited to the profit and loss account, are to be stated.
  - a) Pro-forma credits
  - b) Drawback
  - c) Refund of duty of customs
  - d) Refund of excise duty
  - e) Refund of service tax
  - f) Refund of sales tax or value added tax

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- The auditor should scrutinise the relevant files or regulator's website (if the details are available thereon) or subsequent records relating to such refunds while verifying the particulars and also obtain an appropriate management representation.
- Only the amounts admitted by authorities within the relevant previous year is to be reported.
- In case assessee is following cash system of accounting, it should be clearly brought out, as admitted amount would not be disclosed here.
- The Schema available on the ITD website, also includes GST, however as the same has not yet been duly notified by CBDT, hence the same may not be reported.

### **Clause 16 (c): Escalation claims accepted during the previous year**

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

### **Clause 16 (d): Any other item of income**

- This clause covers any other items which is an income of the assessee based on his verification of books, records and other documents and information gathered, but which has not been credited to the profit and loss account.
- It should disclose any item other than taxable u/s 28, as the same is reportable at clause 16(a).
- In giving the details under sub-clauses (c) and (d), due regard should be given to AS 9 - Revenue Recognition / Ind AS 115 Revenue from Contracts with Customers.
- Transactions which are not accounted for in the books of accounts (which are being audited) should not be reported here.

### **Clause 16 (e): Capital receipt, if any**

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

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Certain items which are capital receipts, *if not credited to statement of profit and loss*, which should be reported in this clause are:

- Profit on sale of Property Plant & Equipment
- Profit on sale of investments
- Receipt of non-refundable deposits
- Forfeiture of deposits
- Compensation for surrendering certain rights
- Government grants in nature of promoter's contributions

Equity, loans and borrowings should not be stated under this sub-clause.

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

- This clause is applicable to all the assesseees. The reporting arises in case there is a transfer of Land or Building or both whether held as capital asset (S. 50 C) or business asset (S. 43CA) during the previous year for a consideration less than the value adopted or assessed or assessable by any authority of state government (for stamp duty value / circle rate).
- **Section 50C** is applicable where the assessee has transferred a capital asset (for capital gain purposes) being land or building or both and the value of such an asset is less than the value adopted or assessed or assessable by any State Government authority for the purpose of payment of stamp duty. In such a case, for purpose of section 48, the value so adopted or assessed or assessable by stamp duty authority shall be deemed to be the full value of consideration.
- **Section 43CA** - On the same lines which are applicable for immovable property held in the nature of 'capital asset' under section 50C of the Act, Section 43CA is applicable where the assessee has transferred an asset (other than a capital asset i.e. being stock-in-trade) being land or building or both and the value of such an asset is less than the value adopted or assessed or assessable by any State Government authority for the purpose of payment of stamp duty.
- The tax auditor should:
  - a) Obtain the information from the assessee with regard to sale of Land or Building or both during the previous year.
  - b) Check the same with the books of account and Financial Statements. In case of Individuals / HUF, Land or Building or both not recorded in books of accounts which are being audited is not to be reported.
  - c) Check whether the Profit/Loss Account refers to an item relating to Profit/Loss on Sale of Land or Building or both.

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- d) Check and decide the applicability of s 43CA of 50C depending upon the nature of asset held by the Assessee
  - e) Check the Registered Sale Deed executed in this regard and find out the value adopted for stamp duty purpose.
  - f) Ensure that reporting is done under this clause *only if*, the land or building or both is transferred for a consideration less than the value adopted or assessed or assessable by any authority of state government.
- Details of the stamp duty value and the consideration received/receivable are to be reported under the clause. An assessee may claim that the stamp duty value exceeds the fair market value (i.e. at which the transaction has taken place), yet in this clause the details are required and such claim may be made before the assessing officer as per section 50C (2). Where the assessee opts to make such claim, appropriate reporting should be made in Para 3 of Form 3CA / Para 5 of Form 3CB after taking appropriate management representation.
  - *PART B of Clause 17 (the reporting table)* has been amended w.e.f. 1.4.2021 by adding a column to seek information regarding – “*whether provisions of second proviso to sub-section (1) of section 43CA or fourth proviso to clause (x) of sub-section (2) of section 56 applicable?*”. The said information is related to the obtain information of relief availed for sale / purchase of specific residential units during a specified period, where difference between stamp duty value and transaction price is more than 10% but less than 20%.
    - Detail of the said relief is as under:
      - According to second Proviso to section 43CA (1) if the stamp duty value does not exceed 110% of the consideration received/accruing then consideration so received/accruing to the seller is deemed to be the full consideration. Here for 110%; 120% shall be substituted if:
        - Sales is of Residential unit of value upto Rs. 2 crores.
        - Primary sale is by real estate developer to home buyers
        - Sale is from 12.11.2020 to 30.06.2021
      - Similar benefit is given to the buyer of the residential unit from real estate developer in fourth Proviso to section 56(2)(x) according to which the property referred in proviso to section 43CA (1), if the Stamp Duty Value is less than Rs 50000 or 20% of the consideration whichever being higher, the consideration paid shall be treated as fair value
    - Details for this part is not applicable for AY 2024-25, hence ‘No’ should be filled in this column in all cases.

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

| <i>Chapter No.</i> | <i>Title</i>        | <i>Link</i>   |
|--------------------|---------------------|---|
| 1                  | Applicability       | <a href="http://lunawat.com/Uploaded_Files/Attachments/F_20303.pdf">http://lunawat.com/Uploaded_Files/Attachments/F_20303.pdf</a> |
| 2                  | Turnover            | <a href="http://lunawat.com/Uploaded_Files/Attachments/F_20304.pdf">http://lunawat.com/Uploaded_Files/Attachments/F_20304.pdf</a> |
| 3                  | Audit Report Format | <a href="http://lunawat.com/Uploaded_Files/Attachments/F_20305.pdf">http://lunawat.com/Uploaded_Files/Attachments/F_20305.pdf</a> |
| 4                  | Clauses 1 to 8A     | <a href="http://lunawat.com/Uploaded_Files/Attachments/F_20307.pdf">http://lunawat.com/Uploaded_Files/Attachments/F_20307.pdf</a> |
| 5                  | Clauses 9 to 12     | <a href="http://lunawat.com/Uploaded_Files/Attachments/F_20309.pdf">http://lunawat.com/Uploaded_Files/Attachments/F_20309.pdf</a> |
| 6                  | Clause 13           | <a href="http://lunawat.com/Uploaded_Files/Attachments/F_20321.pdf">http://lunawat.com/Uploaded_Files/Attachments/F_20321.pdf</a> |
| 7                  | Clauses 14 to 15    | <a href="http://lunawat.com/Uploaded_Files/Attachments/F_20322.pdf">http://lunawat.com/Uploaded_Files/Attachments/F_20322.pdf</a> |

(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)

### 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

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- 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.

He is the conceptualizer of the portal [www.expertspanel.in](http://www.expertspanel.in) which is a one stop solution for all professional queries which has given more than 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](http://www.lunawat.com) and from 2018 at [www.expertspanel.in](http://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*

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*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.