Tax Audit Series 7 – S. Nos. 16-17

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In series - 7 we would discuss the Particulars of Form 3CD – Part B – S. Nos. 16 & 17.

S. No. 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:
    - o 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.

S. No. 16 (a): The items falling within the scope of section 28:

- Auditor should ensure that all the items falling within section 28 which have not been credited to the Profit & Loss Account are reported here.
- He 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.

S. No. 16 (b):

- 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

- 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.

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S. No. 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.

S. No. 16 (d): Any other item of income

- This clause covers any other items which the tax auditor considers as an income of the assessee based on his verification of 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 S. No. 16(a).
- In giving the details under S. Nos. (c) and (d), due regard should be given to AS 9 - Revenue Recognition.

S. No. 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.

Note: Loans and borrowings should not be stated under this sub-clause.

S. No. 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 assessees. 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 (i.e. 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 may not be reported.
c) Check whether the Profit/Loss Account refers to an item relating to Profit/Loss on Sale of Land or Building.
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.

Details of the stamp duty value and the consideration received/receivable are to be reported under the clause. An assesse 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).

I hope this document is of use to you. I thank *Ms. Alisha, Ms. Priyanka wadhwa & Ms. Ria Agarwal* in assisting me to compile this part of the series. Your suggestions and comments would be highly appreciated

Best Regards

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