



Namaste

In series - 13 we would discuss the Particulars of Form 3CD – Part B – S. Nos. 29A to 29B. These new clauses have been inserted w.e.f. 20th August 2018.

S. No. 29A: Whether any amount is to be included as income chargeable under the head ‘income from other sources’ as referred to in section 56(2)(ix)?

- As per section 56(2) (ix) of the Act, if any sum of money is received as an advance or otherwise in the course of negotiations for transfer of a capital asset and if such sum is forfeited or the negotiations do not result in transfer of such capital asset, then the same would be taxable as income under the head **‘Income from Other Sources’**.
- The tax auditor is required to report the nature of such income and the amount involved.
- The auditor should ensure that:
 - The assessee has received an advance against any capital asset i.e., Immovable Property, Plant, Machinery, etc
 - Peruse the agreement and forfeiture clauses contained therein through which advance is received for the capital asset.
 - Obtain balance confirmations from third parties against whose names advances are shown in the assessee’s balance sheet.
 - Obtain management representation from the assessee that the advance received has been forfeited or not and report accordingly.

S. No. 29B: Whether any amount is to be included as income chargeable under the head ‘income from other sources’ as referred to in section 56(2)(x)?

S. 56(2)(x) as amended w.e.f. AY 2018-19 provides that where any person receives, from any person or persons:

- any amount exceeding Rs 50,000/- without consideration then he needs to declare such amount as **‘Income from other sources’** subject to certain exemptions.
- any immovable property,—
 - without consideration, the stamp duty value of which exceeds Rs. 50000/-;
OR
 - for a consideration which is less than the stamp duty value of the property by an amount exceeding Rs. 50000/-, the stamp duty value of such property as exceeds such consideration:
- any property, other than immovable property,—
 - without consideration, the aggregate fair market value of which exceeds Rs. 50000/-, the whole of the aggregate fair market value of such property;
OR



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- for a consideration which is less than the aggregate fair market value of the property by an amount exceeding Rs. 50000/-, the aggregate fair market value of such property as exceeds such consideration :

then he needs to declare such amount as '**Income from other sources**' subject to certain exemptions.

- This clause includes various capital assets including immovable property, shares, etc.
- With respect to **quoted shares & securities**, the auditor has to consider the following provisions which provides for manner of determining:
 - Fair market value (FMV) of quoted shares and securities received by way of transaction carried out through any recognized stock exchange.
 - FMV of quoted shares and securities received by way of transaction carried out OTHER THAN through any recognized stock exchange
- With respect to **unquoted shares & securities**, the auditor should consider the following:
 - Ensure that acquisition should be through transfer and not through issue of fresh shares
 - Verify the FMV of unquoted shares and securities as per rule 11UA / 11U
 - Where FMV exceeds the cost of acquisition of the capital asset being shares and securities by Rs. 50000/- in aggregate, then the same should be reported in this clause
- With respect to **immovable property**, the auditor should consider the following:
 - Immovable property under this clause covers land, or building or both. According to certain cases leasehold land / building is neither land nor building covered u/s 50C.
 - Where the difference between transaction value and stamp duty value exceeds Rs. 50000/- the same needs to be reported under this clause.
 - The assessee has right to contest the FMV before AO
 - However, where the assessee has adequate evidence that the FMV do not exceed the consideration for acquisition by Rs. 50000/- and claims the consideration to be fair market value and intends to contest the same as per the provisions of s. 56(2)(x) read with s. 50C(2), obtain a management representation accordingly. Further the auditor in his report in Form 3CA/ 3B should comment the following regarding this:
 - Stamp duty Value of immovable property
 - Consideration (transaction value) for acquisition of property
 - That the assessee is of the view that FMV does not exceed the consideration and he intends to contest the same before the assessing officer

Tax Audit Series 13 – S. Nos. 29A-29B



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I hope this document is of use to you. I thank *Ms. Bhumika Ghaker* in assisting me to compile this part of the series. Your suggestions and comments would be highly appreciated

Best Regards

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