

Practical Aspects of Tax Audit



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Shared at

Webinar, GyaanStation & Income Tax bar Association-Ahemdabad

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LEGISLATION FOR AY 2024-25

S. 44AB

- Business – exceeds Rs. 1 Cr. / 10 Cr
- Profession – exceeds Rs. 50 L
- Business u/s 44AE /44BB/44BBB; income <deemed profit
- Profession u/s 44ADA; deemed profit <50% &TI > MANCT
- Business u/s 44AD (4) & TI > MANCT

Rule 6G

- Prescribing the Forms for Report u/s 44AB

Form 3CA

- Report in case of a person who is required to get his A/cs audited under any law

Form 3CB

- Report in any other case

Form 3CD

- Particulars as required in Form 3CA or Form 3CB

S. 271B

- Penalty $\frac{1}{2}\%$ Maximum Rs. 1.50 L

APPLICABILITY OF 44AD(44ADA) / 44AB

**Mr. A started Mfg – 1st Yr - Turnover (all cash)
– 150L; NP – 8 L; TI - 8.50 L**

- AD - No
- AB - Yes

**Ms. B - Trading - Turnover (all cash) – 90L; NP -
10L; Doctor- Fee – 45 L; NP- 25 L; TI -32L**

- AD – No
- ADA - Yes
- AB - No

**Ms. C – Trading Turnover (all cash)– 80L
NP – 4 L; TI- 3 L**

- AD – No
- AB - No

**Mr. D - Trading; Turnover (all cash) - 95L;
Commission – 6 L; NP- 15L; TI - 14L**

- AD - No
- AB - Yes

APPLICABILITY OF 44AD(44ADA) / 44AB

Mr. E - Turnover (all bank) – AY 2023-24 -150L
availed S. 44AD; AY 2024-25 – Tr 225 L (all
bank) NP – 10 L; TI - 8.50 L

- AD - No
- AB - Yes

Ms. F - Turnover in 1st year (all cash) – AY 2023-
24 - 120L; NP - 10L; No 44AD; Turnover (all
bank) AY 2024-25 – 220L; NP – 20 L – 44AD!!

- AD - Yes
- AB - No

Ms. G - CA Turnover (all Bank)– 60L NP – 35 L;
TI- 32 L

- ADA – Yes
- AB - No

Ms. H – CA Turnover (all Bank)– 60L ;NP– 25L
; TI- 22 L

- ADA – No
- AB - Yes

APPLICABILITY OF 44AB – SPL. CASES

Mr. I – Profession – 40 L; Business – 80 L

• No

Ms. J – Profession – 80 L; Business – 70 L

Yes, B & P

M/s K Inc – Non- Resident, FTS 11 Cr. TDS u/s 195, DTAA

• Yes

CA. L – Remuneration 90 L from firm in which partner

• No, *Perizad Zorabian Irani v. PCIT Mumbai WP 1333/2021 Bombay HC*

SECTION 44AD ESSENTIALS

- **Should be eligible assessee**
 - **Ind., HUF, Firm (except LLP); and**
 - **No s. 10A, 10AA, 10B, 10BA & Chp VIA Part C**
- **Should be doing eligible business**
 - **Any except 44AE; and**
 - **Turnover < 2 Crs / 3 crs**
- **Section not applicable to a person carrying:**
 - **Profession u/s 44AA(1)**
 - **Commission or brokerage**
 - **Agency business**
- **Deemed profit 8% / 6% or more**
- **Commensurate with fund flow!!!**

AMENDMENT AY 2024-25

× S. 44AD

+2 Cr to 3 Cr, if aggregate of amounts received during PY in cash do not exceed 5% of total turnover or gross receipts

× S. 44ADA

+50 L to 75 L – same basis

SECTION 44ADA ESSENTIALS

- **Applicable to Individual, HUF, Firm (excluding LLP)**
- **Should be engaged in profession – section 44AA(1) read with rule 6F**
- **Gross receipt < 50 Lakhs / 75 Lakhs**
- **Deemed profit 50% or more**
- **Commensurate with fund flow!!!**

PROFESSION – S. 44ADA

- **Section 44AA (1) read with Rule 6F**
 - **Legal**
 - **Medical**
 - **Engineering**
 - **Architectural**
 - **Accountancy**
 - **Technical Consultancy**
 - **Interior Decoration**
 - **Authorised Representative**
 - **Company Secretary**
 - **Film Artist, actors, cameramen, editor.....**
 - **Information Technology**

44AB(a)

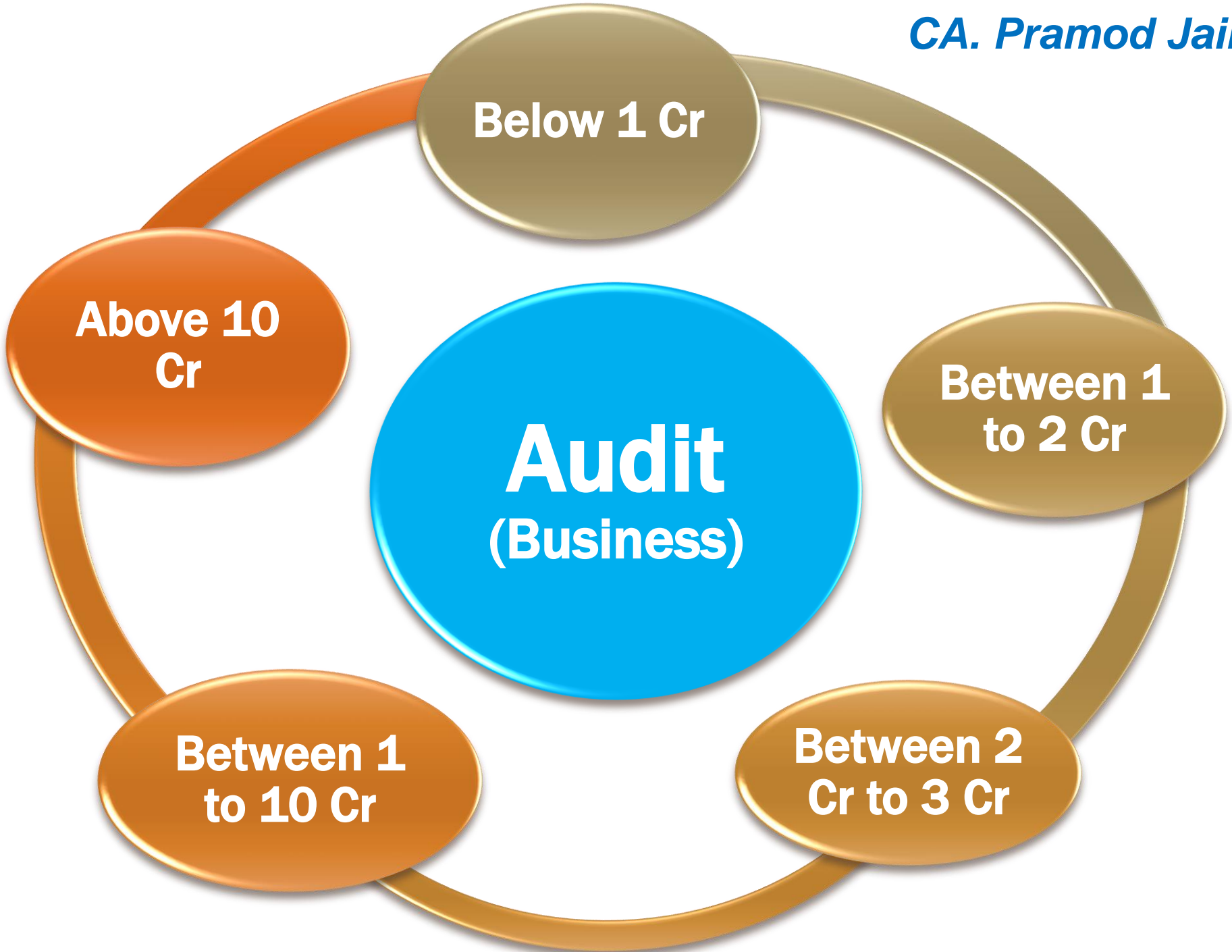
- × **Limit 1 Cr / 10 Cr !!**
- × **Limit of 10 Cr Only if:**
 - + **Aggregate of all amounts received in cash do not exceed 5% of said amt.**
 - + **AND**
 - + **Aggregate of all Payments made in cash do not exceed 5% of said payment**

44AB(a) ????

- ✘ **Payments all by banking channels**
- ✘ **Receipts:**
 - + **6 Crs sales out of which 20 Lacs in Cash**
 - + **Proprietor introduces capital - 25 Lacs in cash**
 - + **Loans received - 50 Lacs by NEFT**
 - + **Is tax audit u/s 44AB required?**
 - + **Yes, as total receipts - 675 L ; cash - 45L**
- ✘ **Is it mandatory or optional??**
 - + **Mandatory - Part I (1) of 2nd schedule**
- ✘ **Non -A/c Payee Cheque/ Draft - Cash**

PRESUMPTIVE INCOMES

S. No.	Section	Nature of Activity	Less than Deemed Profits	Provisions for Audit	Audit Provision
1	44AD	Business	If availed 44AD & not availed in any of next 5 years, then for next 5 years - Audit	44AD(4)/(5)	44AB(e)
2	44ADA	Profession	Audit	44ADA(4)	44AB(d)
3	44AE	Goods Carriage	Audit	44AE(7)	44AB(c)
4	44B	Shipping of NR	Not Allowed	Nil	Nil
5	44BB	Exploration of Mineral Oils by NR	Audit	44BB(3)	44AB(c)
6	44BBA	Operation of Aircraft by NR	Not Allowed	Nil	Nil
7	44BBB	Turnkey Power Projects by FC	Audit	44BBB(2)	44AB(c)



GROSS RECEIPTS – INCLUSIONS

- **Sale proceeds of scrap, wastage etc. if it is not included in sale or turnover**
- **Advance received & forfeited from customers**
- **Cash assistance under scheme of Govt.**
- **Liquidated damages**
- **Duty Drawbacks / Export incentives**
- **Insurance claim (except relating to PPE (fixed assets))**
- **Net Foreign exchange diff. on export sales**

GROSS RECEIPTS – INCLUSIONS

- **Gross interest income (if forms part of business income)**
- **Rental income (if forms part of business)**
- **Dividend income (in case of dealer of shares & securities)**
- **Commission, brokerage, service & other incidental charges received in chit fund business**
- **Reimbursement of expenses incurred (if credited to separate a/c then only to extent of surplus)**

GROSS RECEIPTS – INCLUSIONS

- **Hire charges & instalments received**
- **Finance income in case of lessor**
- **Hire charges of cold storage**
- **Value of any benefit or perquisite, whether convertible into money or not, arising from business or profession**
- **Advertising charges by an advert. agent from client, where books advert. space in bulk & recover charges from diff. clients**
- **Amt. received for conducting package tour**

GROSS RECEIPTS – EXCLUSIONS

- **Sale proceeds of asset held as investment.**
- **Sale proceeds of PPE (fixed assets) including advance forfeited, if any**
- **Interest income (if not forms part of business income)**
- **Dividend except in case of dealer in shares**
- **Reimbursements of custom duty and other charges collected by clearing agent**
- **Share of profit of partner of firm/LLP excluded from total income u/s10(2A)**

GROSS RECEIPTS – EXCLUSIONS

- **Liabilities/ provisions of creditors, expenses or taxes written back**
- **Rental income (if not forms part of business income)**
- **Reimbursement of advertising charges by an advertising agent from the client**
- **Agriculture receipts [s. 2(1A) r.w.s 10(1)]**
- **Travelling agent amt. received from clients for payment to airline, railways etc. as reimbursement.**

GROSS RECEIPTS – EXCLUSIONS

- **Interest, remuneration received by partner from partnership firm.**
- **In case of recruiting agent, the amount received from the clients by way of reimbursement for advertisement.**

TURNOVER – INCLUSIONS

- **Sale of scrap / By product**
- **Sale proceeds of shares, securities, debentures etc. held as stock in trade by the assessee.**
- **Cash discount other than allowed in invoice is not to be deducted.**
- **Commission on sales**
- **If GST or any other indirect tax was included in sale price while accounting (Inclusive method), then - part of Turnover.**

TURNOVER – EXCLUSIONS

- **If GST was not included in sale price while accounting (Exclusive method), then the same shall not form part of Turnover.**
- **Sale proceeds of PPE (Fixed Assets).**
- **Sale proceeds of Investment property.**
- **Sale proceeds of shares, securities, debentures held as an investment.**
- **Discounts (whatever nature) allowed in Invoice.**

TURNOVER – EXCLUSIONS

- **Trade / Turnover discount (even if allowed by way of separate credit note).**
- **Ancillary charges such as packing, freight and forwarding etc. provided they are separately mentioned in the Invoice. Otherwise, they will form part of Turnover.**
- **Sales Returns**
- **Price adjustments.**
- **Special rebate (excluding commission on sales)**

TURNOVER – SHARES / AGENCY

- **Agency Business – Commission**
- **Share Broker – Commission**
- **Delivery based – total value of sales**
- **Speculative - Aggregate of both positive (gains) & negative (losses) differences.**

TURNOVER – DERIVATIVES

- **Total of favourable & unfavourable diff. in case of squared off transactions.**
- **If transaction is not squared off at yr end, turnover (diff.) would be considered in yr in which it is squared off.**
- **Premium received on sale of options. However, if premium received is included to determine profit, then such profit not be included.**
- **In case of delivery-based settlement, difference in case of trade price & settlement price would be turnover.**

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