

# **Interplay between S. 44AD & 44AB**



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**Shared at**

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# LEGISLATION FOR AY 2023-24

## S. 44AB

- Business – exceeds Rs. 1 Crore / 10 Crores
- Profession – exceeds Rs. 50 L
- Business u/s 44AE / 44BB / 44BBB; income < deemed profits;
- 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 – 1<sup>st</sup> 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

# SECTION 44AD ESSENTIALS

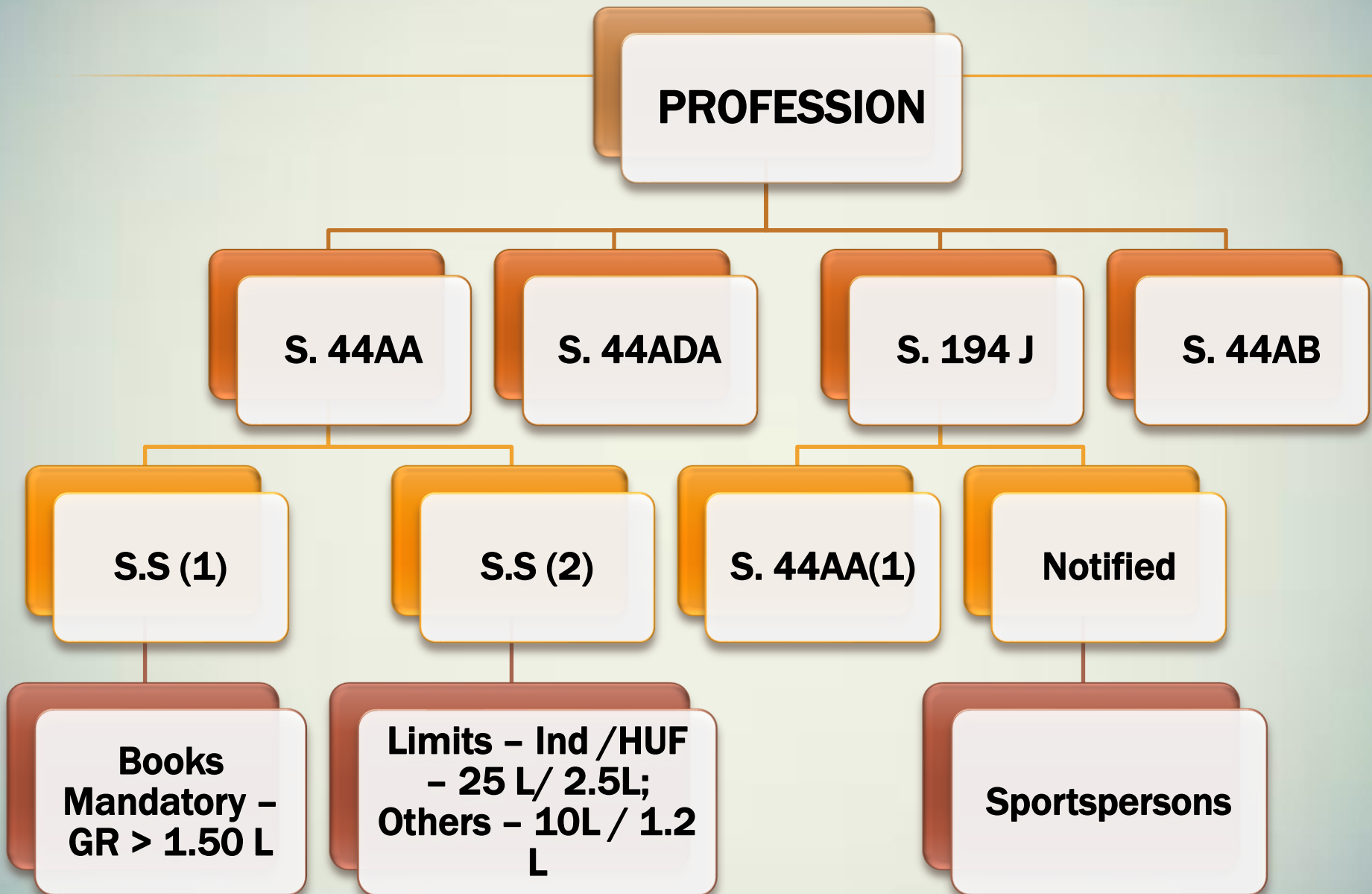
- **Should be eligible assessee**
  - **Ind., HUF, Firm (except LLP); and**
  - **No s. 10A, 10AA, 10B, 10BA & Chp VIA Part C**
- **Should be doing eligible business**
  - **Any except 44AE; and**
  - **Turnover < 2 Crs**
- **Section not applicable to a person carrying:**
  - **Profession u/s 44AA(1)**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

# 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**
- **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**

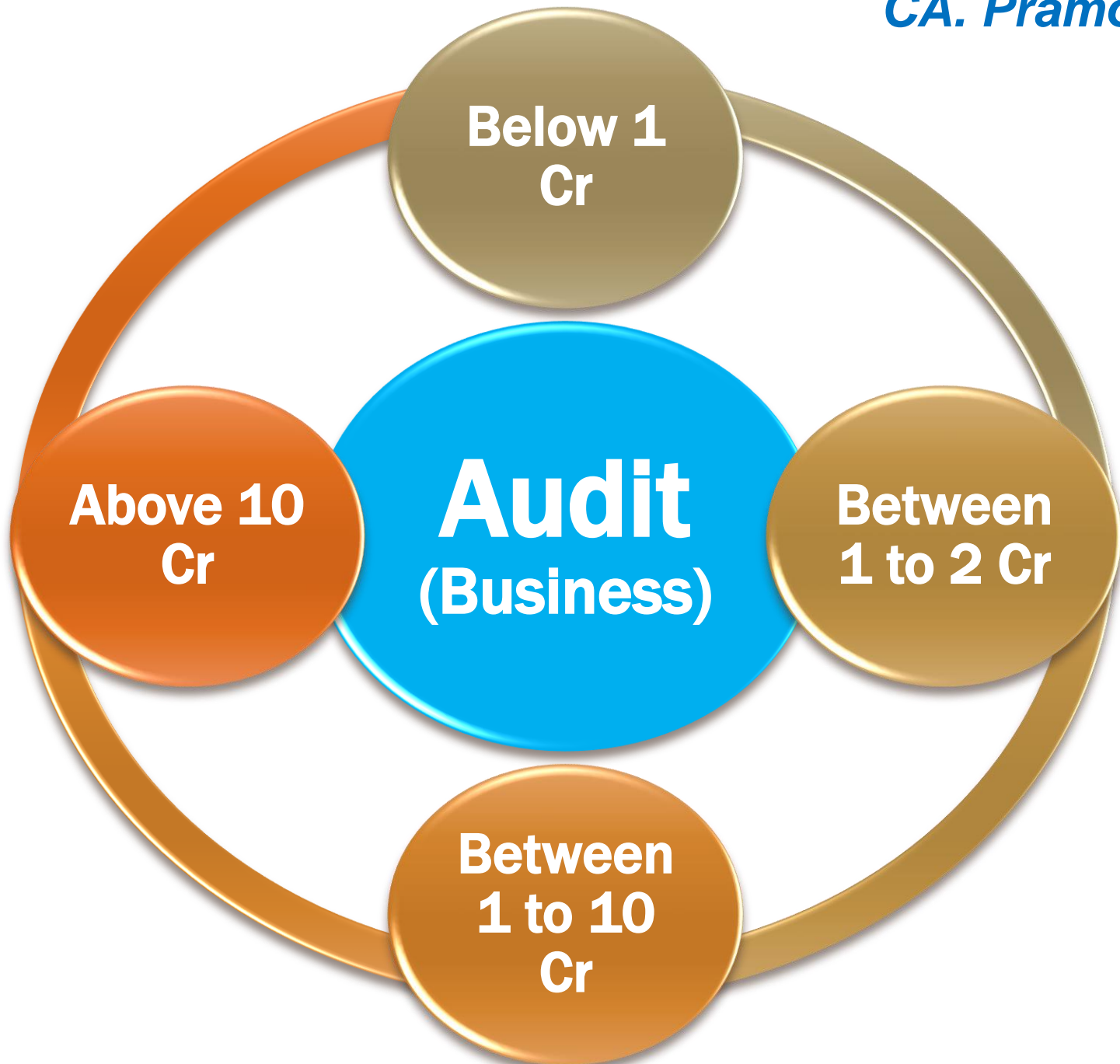


# 44AB(a) ???

- ✗ **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 2<sup>nd</sup> 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)



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