

Overview of Tax Audit

u/s

S. 44AB & Errors



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Shared at

Warangal, Karimnagar Br. & Nizamabad CPE Chap. of SIRC of ICAI

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LEGISLATION FOR AY 2021-22

S. 44AB

- Business – exceeds Rs. 1 Crore / 5 Crores / 10 Crores
- Profession – exceeds Rs. 50 L
- Business u/s 44AE /44BB /44BBB; income < deemed profits;
- Profession u/s44ADA; 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

SECTION 44AD ESSENTIALS

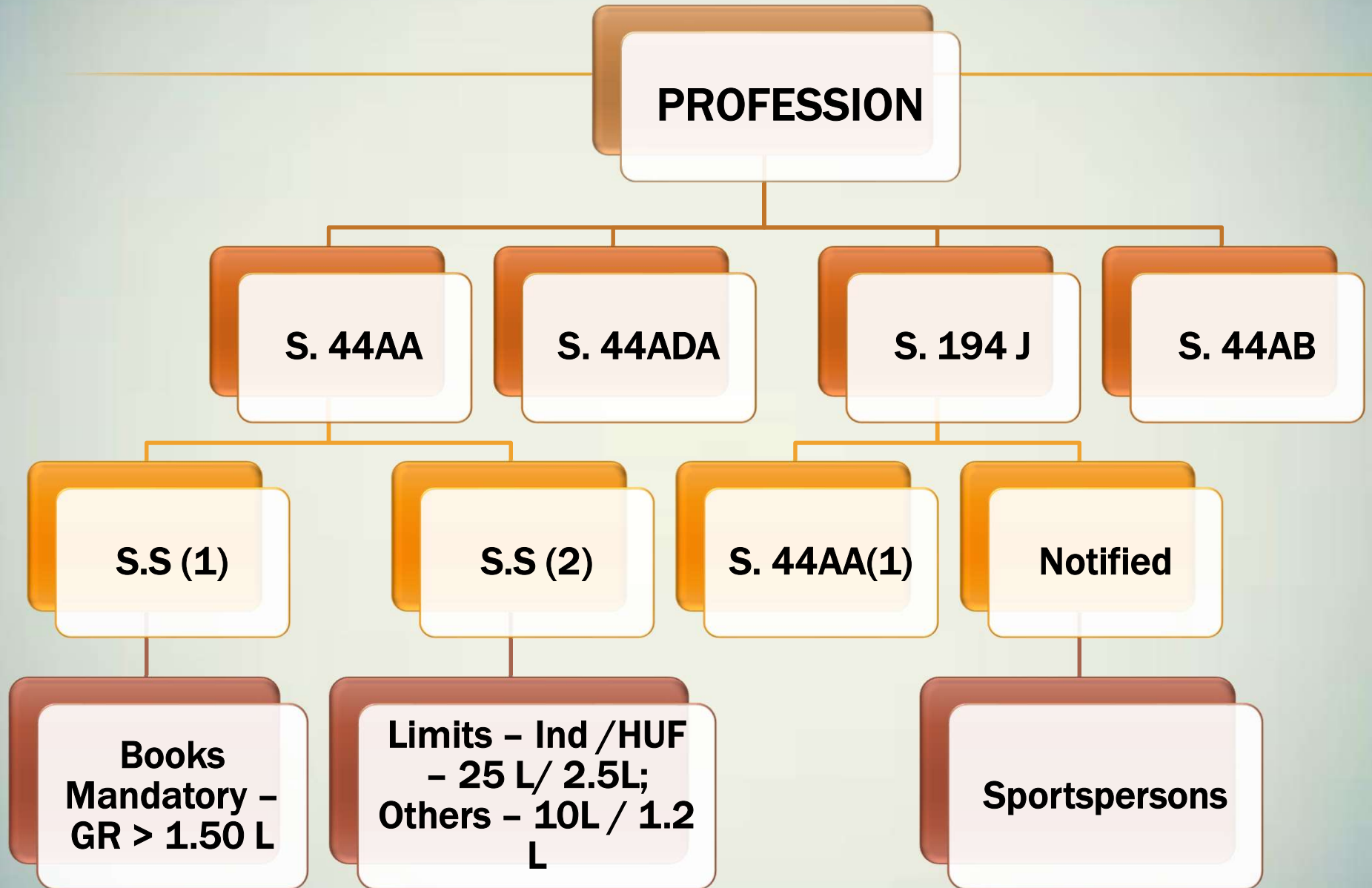
- **Should be eligible assessee**
 - **Ind., HUF, Firm (except LLP); and**
 - **No s. 10A, 10AA, 10B, 10BA & Chp VIA Part C**
- **Should be doing eligible business**
 - **Any except 44AE; and**
 - **Turnover < 2 Crs**
- **Section not applicable to a person carrying:**
 - **Profession u/s 44AA(1)**
 - **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**
 - **Accountancy**
 - **Architectural**
 - **Authorised Representative**
 - **Company Secretary**
 - **Engineering**
 - **Film Artist, actors, cameramen, editor.....**
 - **Interior Decoration**
 - **Legal**
 - **Medical**
 - **Technical Consultancy**
 - **Information Technology**



44AB(a)

- × **Limit 1 Cr - 5 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**
- × **Non -A/c Payee Cheque/ Draft - Cash**

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**

RELATED CHANGE IN ITR

UNDER AUDIT INFORMATION REGARDING THE DECLARATION OF INCOME: ITR 3, 5 & 6

a	Whether liable to maintain accounts as per section 44AA? (Tick) <input checked="" type="checkbox"/> <input type="checkbox"/> Yes <input type="checkbox"/> No													
a2	Whether assessee is declaring income only under section 44AD/44ADA/44AE/44B/44BB/44BBA (Tick) <input checked="" type="checkbox"/> <input type="checkbox"/> Yes <input type="checkbox"/> No													
a2i	If No, whether during the year Total sales/turnover/gross receipts of business exceeds Rs.1 crore but does not exceed Rs.10 crores? (Tick) <input checked="" type="checkbox"/> <input type="checkbox"/> Yes <input type="checkbox"/> No													
a2ii	If Yes is selected at a2i, whether aggregate of all amounts received including amount received for sales, turnover or gross receipts or on capital account such as capital contribution, loans etc. during the previous year, in cash, does not exceed five per cent of the said amount? (Tick) <input checked="" type="checkbox"/> <input type="checkbox"/> Yes <input type="checkbox"/> No													
a2iii	If Yes is selected at a2i, whether aggregate of all payments made including amount incurred for expenditure or on capital account such as asset acquisition, repayment of loans etc. during the previous year, in cash, does not exceed five per cent of the said payment? (Tick) <input checked="" type="checkbox"/> <input type="checkbox"/> Yes <input type="checkbox"/> No													
b	Whether liable to maintain accounts as per section 44AB? (Tick) <input checked="" type="checkbox"/> <input type="checkbox"/> Yes <input type="checkbox"/> No													

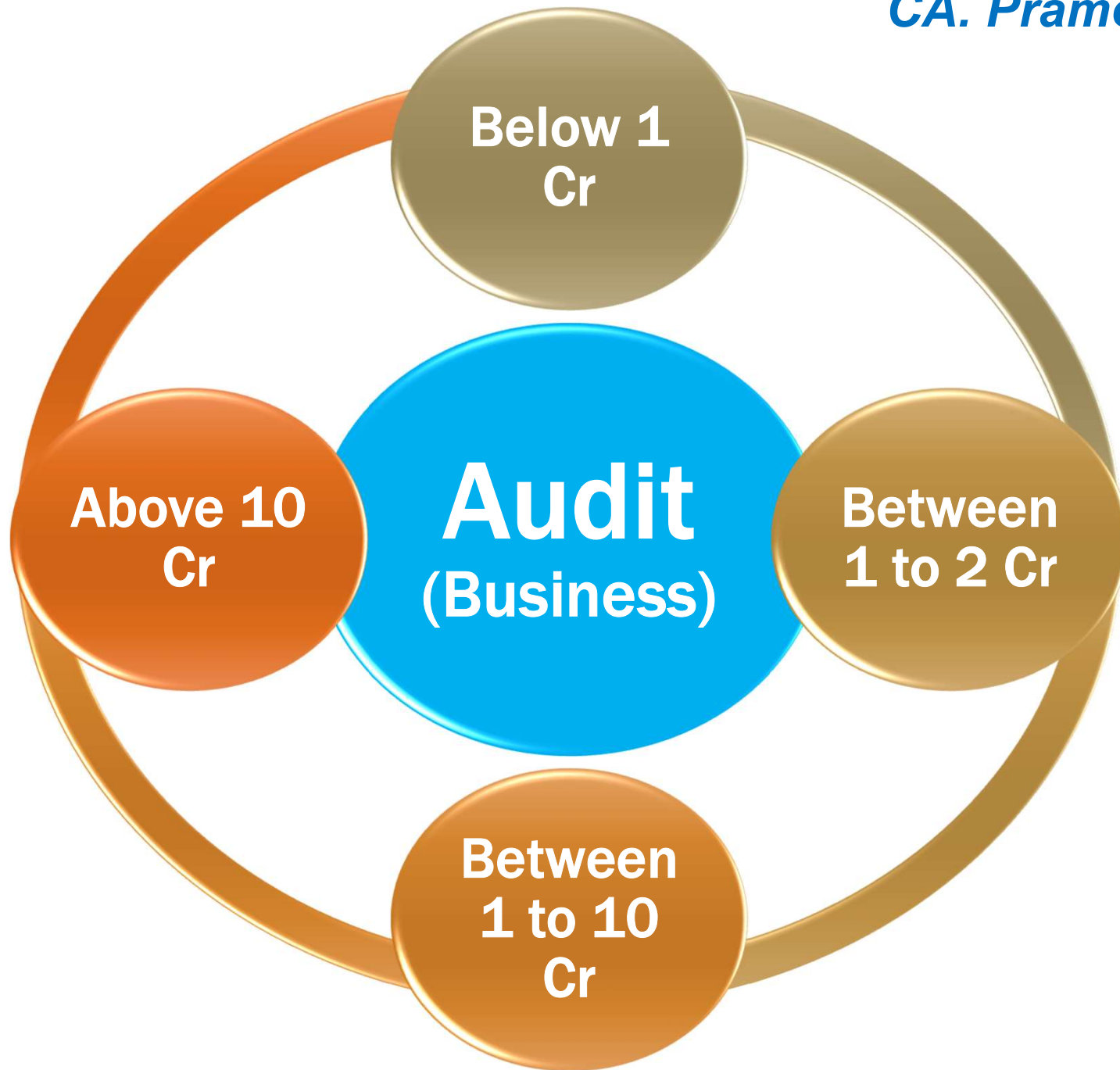
44AB / 44AD

- × **ABC & Co. formed in AY 2020-21**
 - + **Turnover Rs. 1.25 Crs**
 - + **Audit u/s 44AB(a)**

- × **AY 2021-22**
 - + **Turnover Rs. 1.95 Crs**
 - + **If cash receipt / payment less than 5% would there be audit u/s 44AB?**
 - + **Can it avail of 44AD?**

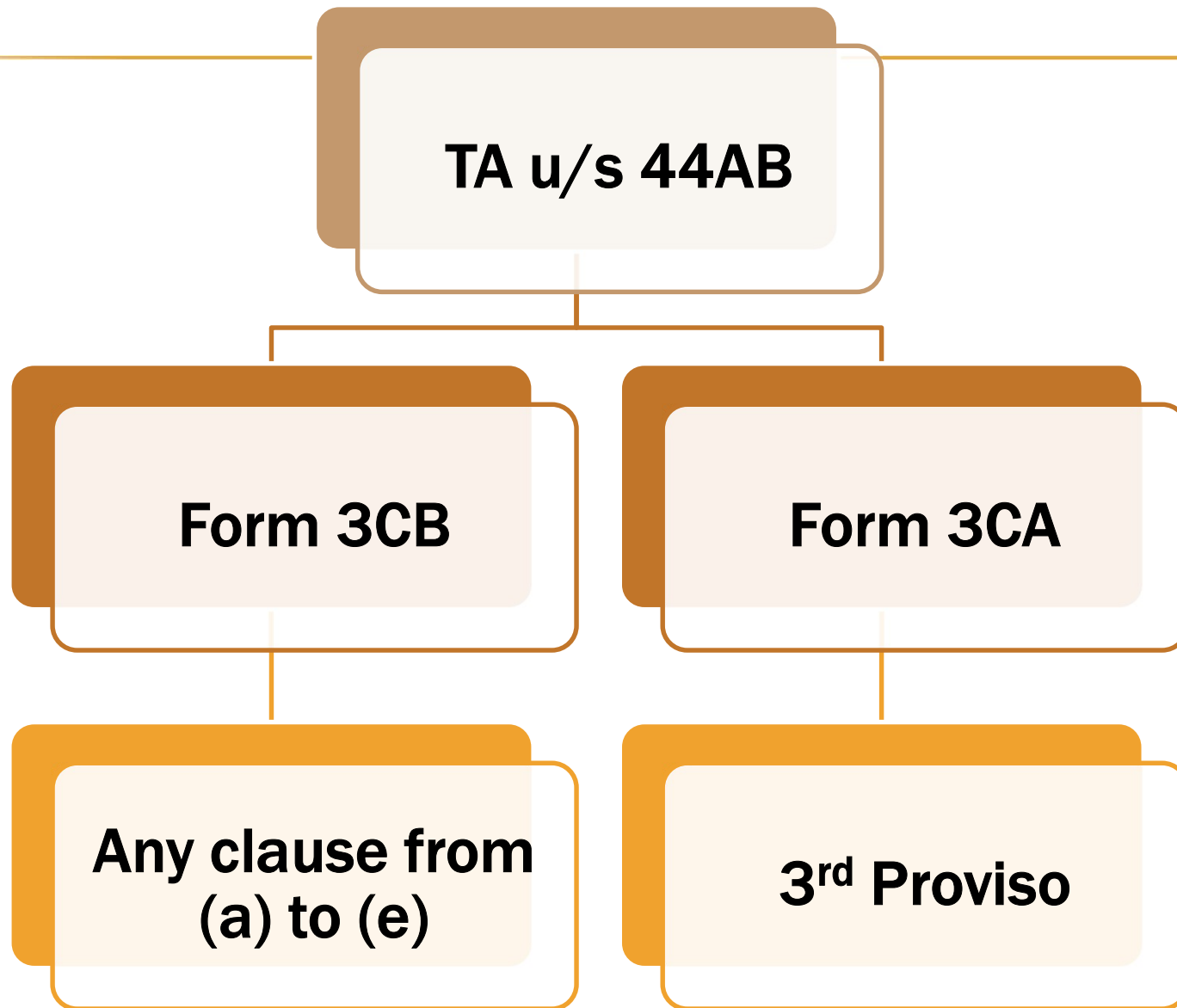
PRESUMPTIVE INCOMES

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)



UDIN

- **When Form 3CA – two UDINs**
 - **One for audit of financial statements**
 - **One for Form 3CA**
- **When Form 3CB – One – choose correct clause in Cl. 8 of Form 3CD – same in UDIN and IT website**
- **Tax audit date of filing – day of acceptance by tax payer**
- **If UDIN not uploaded within 15 days – Form becomes INVALID – Prior UDIN**



AS DISCLOSURES

- × Levels II, III, IV
- × AS 1 – Policies
- × Are Notes to A/c prepared in Non-corporates?
- × Comparative figures !!

AS APPLICABILITY FOR NON-CORPORATES

- ✘ Effective for Accounting Periods from 1.4.2020
- ✘ Instead of 3 levels.. Now 4 levels

Level	Turnover			Borrowing	
	Existing	Revised		Existing	Revised
I (Large)	> 50 Cr	> 250 Cr		> 10 Cr	> 50 Cr
II (Medium)	1-50Cr	50-250 Cr		1-10 Cr	10-50 Cr
III (Small)	< 1 Cr	10-50 Cr		< 1 Cr	2-10 Cr
IV (Micro)		< 10 Cr			< 2 Cr

FORM 3CA

- × **Total 3 Paras**
- × **Examination of books by auditor included before giving opinion**
- × **Opinion to be given subject to observations / qualifications, no annexures ... Para 3**

FORM 3CB

- × Total 5 Paras
- × Same as Form 3CA except examination of books
- × Opinion subject to observations / qualifications to be given:
 - + Financial Statements – 3(a)
 - + Form 3CD – 5
- × SA 700?

SA 700 – PARA 3(a) – Form 3CB

- × **Assessee's Responsibility** for the Financial Statements and the Statement of Particulars in Form 3CD
 1. The **assessee is responsible for the preparation and fair presentation of the financial statements** in accordance with the Accounting Standards issued by the ICAI, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.
 2. In preparing the financial statements, management is responsible for assessing the entity's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the entity or to cease operations, or has no realistic alternative but to do so.
 3. Those charged with governance are responsible for overseeing the entity's financial reporting process.

SA 700 – PARA 3(a) – Form 3CB

× Tax Auditor's Responsibility

- × Our objectives are to **obtain reasonable assurance** about whether the financial statements as a **whole are free from material misstatement**, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is **not a guarantee** that an audit conducted in accordance with SAs will **ALWAYS detect a material misstatement** when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these FS

SA 700 – PARA 3(a) – Form 3CB

- ✘ **As part of an audit in accordance with SAs, we exercise professional judgment and maintain professional skepticism throughout the audit.**
- ✘ **We also:**
 - + **Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.**

SA 700 – PARA 3(a) – Form 3CB

- + Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances.
- + Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- + Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Company's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Company to cease to continue as a going concern.

SA 700 – PARA 3(a) – Form 3CB

- + Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- ✘ We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.
- ✘ We also provide those charged with governance with a statement that we have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on our independence, and where applicable, related safeguards.

SA 700 – PARA 5 – FORM 3CB / PARA 3 – FORM 3CA

2. The **assessee is responsible** for the preparation of the statement of **particulars required to be furnished under section 44AB** of the Income-tax Act, 1961 annexed herewith in **Form No. 3CD** read with Rule 6G(1)(b) of Income Tax Rules, 1962 that give true and correct particulars as per the provisions of the Income-tax Act, 1961 read with Rules, Notifications, circulars etc that are to be included in the Statement.

SA 700 – PARA 5 – FORM 3CB / PARA 3 – FORM 3CA

- × We are also **responsible for verifying the statement of** particulars required to be furnished under section 44AB of the Income-tax Act, 1961 annexed herewith in **Form No. 3CD** read with Rule 6G (1) (b) of Income-tax Rules, 1962. We have **conducted my/our verification of the statement in accordance with Guidance Note on Tax Audit** under section 44AB of the Income-tax Act, 1961, issued by the Institute of Chartered Accountants of India.

CLAUSE – 2 ADDRESS

- × **Address mentioned** in Form No. 3CA/ 3CB is **different** from the one **mentioned in Annual report or as registered under MCA.**
- × **Guidance Note - should contain the address as has been communicated by the assessee to the Income-tax Department for assessment purposes as on the date of signing of the audit report.**

CLAUSE - 10A NATURE OF BUSINESS OR PROFESSION

(IF MORE THAN ONE BUSINESS OR PROFESSION IS CARRIED ON
DURING PY, NATURE OF EVERY BUSINESS OR PROFESSION)

- ✘ Information to be furnished in respect of each business.
- ✘ Codes for business or profession for **all main activities** are not being reported.

CLAU~~SE~~ - 11A BOOKS OF ACCOUNT U/S 44AA

- ✘ Under section 44AA **NO** Books of accounts are prescribed for business.
- ✘ In respect of a **businesses**, the tax audit report should report “No” under this sub-clause.

CLAUSE – 11B LIST OF BOOKS OF ACCOUNT MAINTAINED & ADDRESS

- ✘ **Location of maintenance of Books of Account has not been specified.**
- ✘ **Fact that the Books of Accounts are maintained in computer system, is not mentioned in some cases.**
- ✘ **Places of Maintenance of records in Tax Audit report vis-a-vis annual reports.**

CLAUSe – 11C LIST OF BOOKS OF ACCOUNT & NATURE OF RELEVANT DOCUMENTS EXAMINED.

- × **All the relevant documents examined are not mentioned** like Invoices, receipts, vouchers, bills, secretarial, confirmation, certificates, internal & external.
- × **Guidance Note - reference to all such supporting evidences/ relevant documents is also required** to be made under this clause.

CLAUSE - 13D - ICDS

- × **Details** required are **not fully disclosed**.
While **reporting** is done in respect of **some of ICDS**, **others** are just **left blank**. In order to ensure clarity, if **no adjustments** are there to be reported, **“0”** or **“Nil”** should be mentioned.

CLAUSE – 13F - ICDS

- × Reference to the disclosures made in the financial statements is given under these sub-clauses particularly in case of ICDS I. FS?
- × If there is any specific change in Accounting policies or any deviation from the given requirement under ICDS then the same should be required to be disclosed under the relevant sub-clause.
- × Disclosure of information pertaining to each ICDS may be different from the relevant Accounting Standard.

CLAUSE – 14A METHOD OF VALUATION OF CLOSING STOCK

- × Method of valuation has **not been mentioned** separately for **each item of stock**.

CLAUSE – 14B DEVIATION FROM SECTION 145A

- ✘ **Inclusive method for valuation of inventory is prescribed under the taxation laws and thus effects of inclusion of duties & taxes are to be properly reported under this clause.**
- ✘ **Deviations from 145A remained to be reported while following exclusive method in certain cases.**
- ✘ **For Inclusive / Exclusive method - Refer Para 23 of ICAI Tax Audit Guidance Note (After GST – refer Paras 23.18 to 23.24)**

CLAUSE – 18D DEPRECIATION ADDITIONS/DEDUCTIONS

- × **Dates not given**
- × **Variation in TAR uploaded on
Income Tax department and in the
annexure attached to physically
signed Tax Audit Report.**

CLAUSE – 22 INTEREST INADMISSIBLE
U/S 23 MSMED ACT, 2006

- ✘ **Interest to MSME has been paid which is reflected through the Annual Report. However, the same was not reported in Tax Audit Report.**

CLAUSE – 34A TDS / TCS

Total of expenses as mentioned under the clause under Tax Audit Report under specific heads like salary, rent etc were **not matching** with the relevant figures in **financial statements**.

CLAUSE – 35B IN THE CASE OF A MANUFACTURING CONCERN, QUANTITATIVE DETAILS

- ✘ Neither percentage of yield has been reported nor any qualification has been given in the Tax Auditor report.**

CLAUSE - 40 TURNOVER, GROSS PROFIT, ETC.

- × **Para 67.1 of Guidance note on tax audit
“These ratios have to be calculated only for
assesseees who are engaged in
manufacturing or trading activities”.**

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