

Overview of Tax Audit



CA. PRAMOD JAIN

B. COM (H), FCA, FCS, FCMA, LL.B, MIMA, DISA, IP

Shared at

Webinar, Pathankot Chapter of NIRC of ICAI

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WHAT IS TAX AUDIT??

- + S. 10 (23C) (iv), (v), (vi) or (via),
- + Section 10A,
- + Section 12A(1)(b),
- + Section 44AB
- + Section 80-IA,
- + Section 80-IB,
- + Section 80-IC,
- + Section 80-ID,
- + Section 80JJAA,
- + Section 80LA,
- + Section 92E
- + Section 115JB
- + Section 115JC



LEGISLATION FOR AY 2020-21

S. 44AB

- Business – exceeds Rs. 1 Crore / 5 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 – 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

44AB

- ✗ **Limit 1 Cr to 5 Cr !!**
- ✗ **Limit of 5 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 ???

✗ **Payments all by banking channels**

✗ **Receipts:**

+ **4 Crs sales out of which 10 Lacs in Cash**

+ **Proprietor introduces capital – 15 Lacs in cash**

+ **Loans received– 10 Lacs by NEFT**

+ **Is tax audit u/s 44AB required?**

+ **Yes, as total receipts - 425 L ; cash – 25L**

+ **Is it mandatory or optional??**

+ **Mandatory**

44AB / 44AD

✖ **ABC & Co. formed in AY 2019-20**

+ **Turnover Rs. 1.25 Crs**

+ **Audit u/s 44AB(a)**

✖ **AY 2020-21**

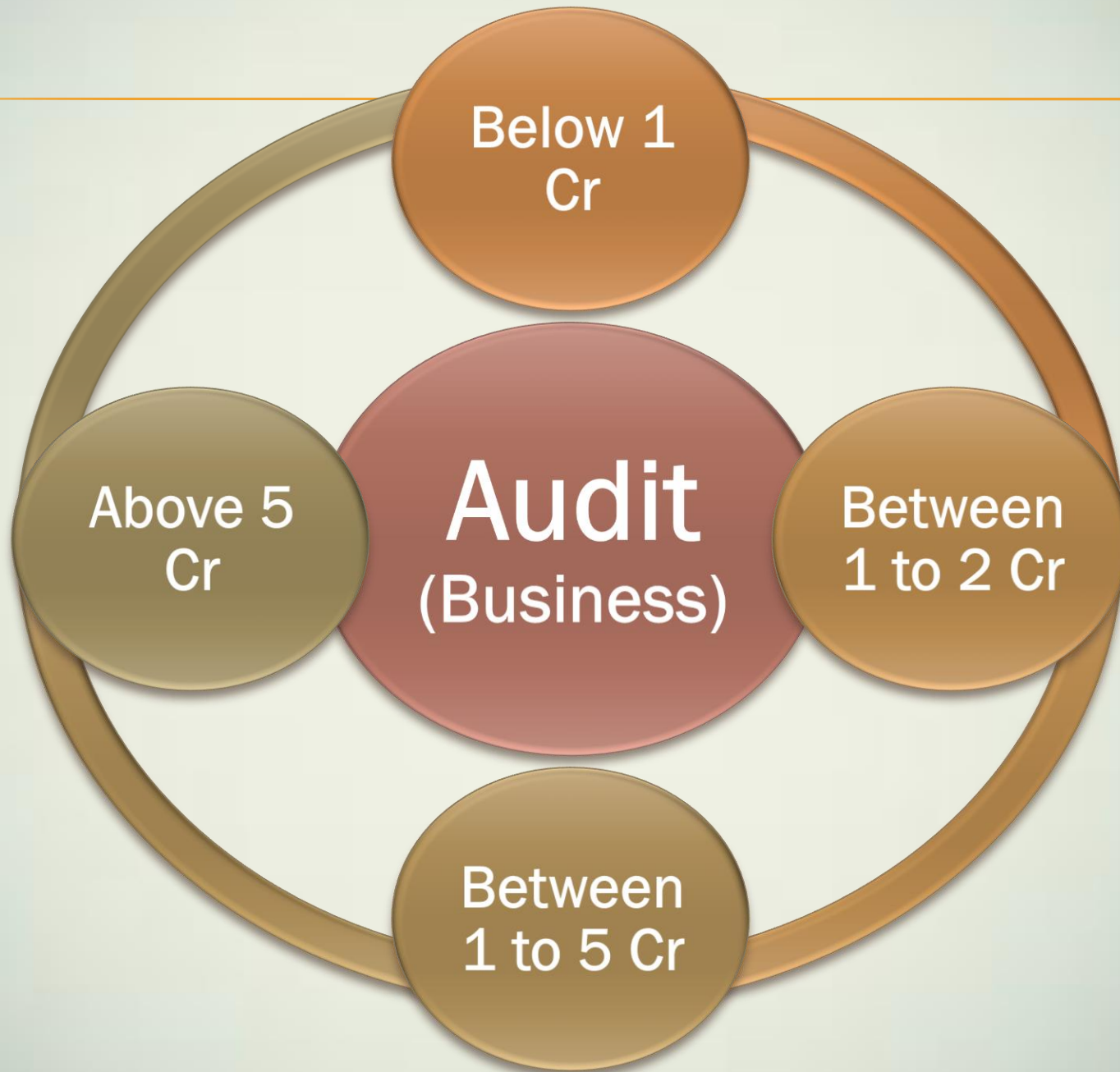
+ **Turnover Rs. 1.95 Crs**

+ **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)



RELATED CHANGE IN ITR

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

(a1)	Are you liable to maintain accounts as per section 44AA? (Tick) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
(a2)	Whether assessee is declaring income only under section 44AE/44B/44BB/44AD/44ADA/44BBA/44BBB <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 crores but does not exceed Rs. 5 crores? <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 like capital contributions, loans etc. during the previous year, in cash, does not exceed five per cent of said amount? <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., in cash, during the previous year does not exceed five per cent of the said payment? <input type="checkbox"/> Yes <input type="checkbox"/> No

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**

TAX

AUDIT

Qualified
or
Disqualified

WHO CAN CONDUCT AUDIT

- **W.e.f. 1st June 2015**
- **Accountant as defined in Explanation below S. 288 (2)**
- **A Chartered Accountant as defined in section 2 (1) (b) of the Chartered Accountants Act, 1949 who holds a valid certificate of practice u/s 6 (1) of that Act**
- **CA in practice (can represent)**

DISQUALIFICATION - COMPANIES



DISQUALIFICATION – OTHERS

- **Assessee himself**
- **In case of a firm - any partner of the firm**
- **In case of AOP - member of the association**
- **In case of HUF - member of the family**
- **Person referred to in section 13(3)(a),(b),(c), (cc);**
- **Relative of any of above persons**
- **Other than above, person who is competent to verify return u/s 139/140;**
- **Officer or employee of assessee;**

RELATIVE – INCOME TAX AUDITOR

- **Spouse of the individual;**
- **Brother or sister of the individual;**
- **Brother or sister of the spouse of the individual;**
- **Any lineal ascendant or descendant of the individual;**
- **Any lineal ascendant or descendant of the spouse of the individual;**
- **Spouse of a person referred above**
- **Any lineal descendant of a brother or sister of either the individual or of spouse of individual**

DISQUALIFICATIONS - OTHERS

- Who is a partner, or who is in employment, of an officer or employee of assessee;
- Who has been convicted by a court of an offence involving fraud and a period of 10 years has not elapsed from the date of such conviction
- An individual who, or his relative or partner
 - Is holding any security of or interest in assessee – Relative face value - Rs. 1 L
 - Is indebted to the assessee. Relative – Rs. 1 L
 - Has given a guarantee /provided security . Relative – 1 L

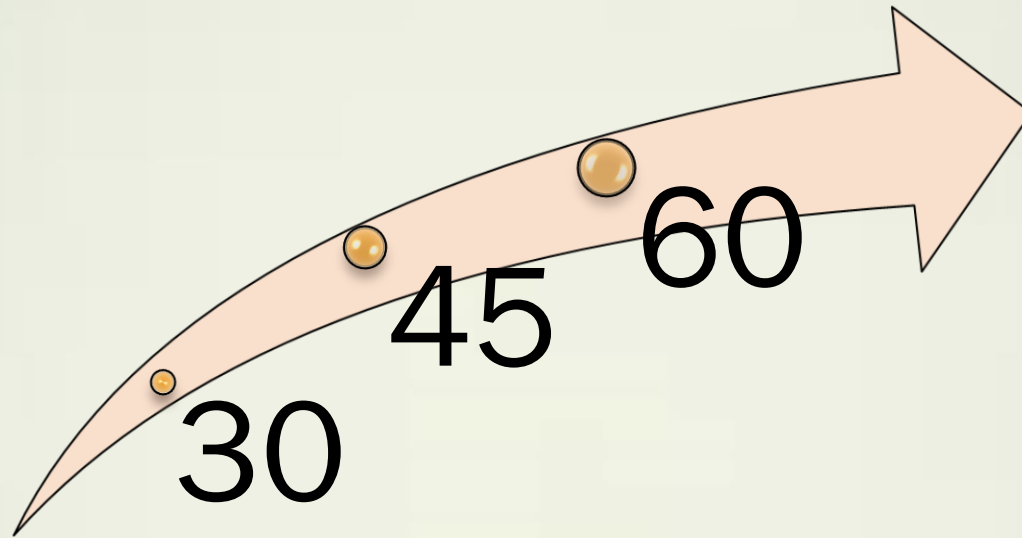
DISQUALIFICATIONS – TAX AUDITOR

- A person or a firm who, whether directly or indirectly, has business relationship with assessee i.e., any transaction entered into for commercial purpose except:
 - In nature of professional services permitted
 - In the **ordinary course of business of co.** at ALP like
 - sale of products or
 - services
 - To **auditor, as customer, in the ordinary course of business**, by companies engaged in business of telecommunications, airlines, hospitals, hotels & such other similar businesses



- **Can a CA in practice who is giving accounting services to a subsidiary, conduct tax audit of its holding company?**
- **Can an internal auditor of a company issue Form 15CB certificate for that company?**

TAR CEILING



- ✗ ICAI clarified in 2011 that audit prescribed under any statute (like DVAT, 2004), not covered
- ✗ 44AD / 44ADA / 44AE audit not covered in limit

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

- ✖ **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

- ✗ **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

- ✖ **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

- + 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

+ 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

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

- ✖ 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.

TA u/s 44AB

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graph TD; A[TA u/s 44AB] --> B[Form 3CB]; A --> C[Form 3CA]; B --> D[Any clause from (a) to (e)]; C --> E[3rd Proviso];
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Form 3CB

**Any clause from
(a) to (e)**

Form 3CA

3rd Proviso

AMENDMENTS IN FORM 3CD

W.E.F 20.8.2018

- ✖ 7 items amended
- ✖ 1 item replaced
- ✖ 10 new items
- ✖ Out of 10 new – **2 DEFERRED – 30C & 44**
 - +31.3.2019**
 - +later till 31.3.2020 and**
 - +now till 31.3.2021**

RECENT IMPORTANT ISSUES

- ✖ **Cl. 26 - Interest to banks u/s 43B - Moratorium due to COVID-19**
- ✖ **Cl. 8a – Company opting for S. 115BA / 115BAA / 115BAB in AY 2020-21 onwards**
- ✖ **Cl. 18(ca) / (cb) – inserted for 115BAA depreciation adjustments**
- ✖ **Cl. 32(a) – Carry Forward Losses – chart for S. 115BAA**

S. NO. 31 (C)- S. 269 SS/T – AMENDED W.E.F. 19.7.17

- ✖ (c) - Particulars of each repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T made during the previous year
 - + New (iv) - whether the repayment was made by cheque or bank draft or use of electronic clearing system through a bank account;
 - + New (v) - in case the repayment was made by cheque or bank draft, whether the same was **taken or accepted repaid** by an account payee cheque or an account payee bank draft.

S. NO. 31(D) - S. 269 SS/T - AMENDED W.E.F. 19.7.17

- ✖ **New (d) - Particulars of repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T **RECEIVED** otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year**
 - + name, address and PAN (if available with the assessee) of the payer;
 - + amount of **repayment of** loan or deposit or any specified advance received otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year.

S. NO. 31(E) - S. 269 SS/T - AMENDED W.E.F. 19.7.17

- ✖ **New (e) -Particulars of repayment of loan/deposit or any specified advance in an amt. exceeding limit specified in s. 269T received by cheque / bank draft which is not an account payee cheque / bank draft during PY**
 - + **name, address & PAN (if available with assessee) of payer;**
 - + **amount of **repayment of** loan or deposit or any specified advance received by a cheque or a bank draft which is not an a/c payee cheque / bank draft during the previous year**

34 (B) - SUSBTITUTED

- ✖ 34 (b) – If TDS / TCS Statement **not furnished within prescribed time**, furnish:
- ✖ **New 34(b)** - Whether the assessee is required to furnish the statement of TDS/TCS. If yes, please furnish the details:
 - + TAN
 - + Type of Form
 - + Due date of furnishing
 - + Date of furnishing, if furnished
 - + Whether the TDS / TCS Statement contains information about all transactions which are required to be reported. **If not, please furnish list of details/transactions which are not reported.** – Transporters??? – yes / no?? – Could be genuine difference of opinion

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Thank You!

CA. Pramod Jain
pramodjain@lunawat.com
+91 9811073867

