

Practical Aspects of Tax Audit



CA. PRAMOD JAIN

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

Shared at

ICAI – Varanasi Branch (CIRC)

1st September 2024

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

Mr. H – CA Turnover – 18L; NP– 7L ; TI- 7 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!!!**

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) ????

- × **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)

???

- ✘ **Are Financial Statements Audited during Tax audit of Prop. Partnership?**
- ✘ **Are Notes to the accounts prepared for Non-Corporates**
- ✘ **Are Accounting Standards applicable to Non-corporates?**
- ✘ **What if there is non-compliance?**
- ✘ **Where to Report such non-compliance?**

AS APPLICABILITY FOR NON-COMPANIES

× From 1.4.2020 - 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

MSME DISCLOSURE - NON CORPORATE

- ✘ **“The Entity is a Micro Small and Medium Sized Enterprise (MSME) as per the announcement made by ICAI and has complied with the Accounting Standards insofar as they are applicable to entities falling in Level II or Level III or Level IV, as the case may be.”**
- ✘ **Two year wait period if change from Level I to II or II to III or III to IV**

AS APPLICABILITY

AS No .	Short Title	Companies		Non - Companies			
		Non-SMC	SMC	L - I	L- II	L - III	L - IV
1	Accounting Policies	Y	Y	Y	Y	Y	Y
2	Inventories	Y	Y	Y	Y	Y	Y
3	Cash Flow	Y	N/Y	Y	N	N	N
4	Events after Balance Sheet date	Y	Y	Y	Y	Y	Y
5	Prior Period Items & Policies	Y	Y	Y	Y	Y	Y
6	Depreciation (Omitted w.e.f. 30.3.16)	NA	NA	NA	NA	NA	NA
7	Construction	Y	Y	Y	Y	Y	Y
9	Revenue	Y	Y	Y	Y	Y	Y
10	Property, Plant & Equipment	Y	Y	Y	Y	Partly	Partly
11	Foreign Exchange	Y	Y	Y	Y	Partly	Partly
12	Government Grants	Y	Y	Y	Y	Y	Y
13	Investments	Y	Y	Y	Y	Y	Y
14	Amalgamations	Y	Y	Y	Y	Y	N
15	Employee Benefits	Y	Partly	Y	Partly	Partly	Partly

AS APPLICABILITY

AS No.	Short Title	Companies		Non - Companies			
		Non-SMC	SMC	L - I	L- II	L - III	L - IV
16	Borrowing Cost	Y	Y	Y	Y	Y	Y
17	Segment	Y	N	Y	N	N	N
18	Related Party	Y	Y	Y	Y	N	N
19	Leases	Y	Partly	Y	Partly	Partly	Partly
20	Earning Per Share	Y	Partly	N	N	N	N
21	Consolidation	N/Y	N/Y	(listed)	N	N	N
22	Deferred Taxes	Y	Y	Y	Y	Y	Partly
23	Consolidated Statements	N/Y	N/Y	(listed)	N	N	N
24	Discontinuing Operation	Y	Y	Y	Y	N	N
25	Interim Reporting	Y (listed)	N**	N**	N**	N**	N
26	Intangible Assets	Y	Y	Y	Y	Y	Partly
27	Interest in Joint Ventures	N/Y	N/Y	(listed)	N	N	N
28	Impairment	Y	Partly	Y	Partly	Partly	N
29	Contingency	Y	Partly	Y	Partly	Partly	Partly

**FORMATS OF
FINANCIAL STATEMENTS
FOR
NON-CORPORATE ENTITIES**

BALANCE SHEET

NAME OF THE NON-CORPORATE ENTITY.....
BALANCE SHEET AS AT

	Particulars	Note No	Figures as at the end of (Current reporting period) (in Rs.) _____ (DD/MM/YYYY)	Figures as at the end of (Previous reporting period) (in Rs.) _____ (DD/MM/YYYY)
	1	2	3	4
I.	OWNERS' AND LIABILITIES			
	(1) Owners' Fund			
	(a) Owners Capital Account			
	(b)Reserves and surplus			
(2)	Non-current liabilities			
	(a) Long-term borrowings			
	(b) Deferred tax liabilities (Net)			

	Particulars	Note No	Figures as at the end of (Current reporting period) (in Rs.) _____ (DD/MM/YYYY)	Figures as at the end of (Previous reporting period) (in Rs.) _____ (DD/MM/YYYY)
	(c) Other Long Term Liabilities			
	Long-term provisions			
(3)	Current liabilities			
	(a) Short-term borrowings			
	(b) Trade payables			
	(c)Other current liabilities			
	(d)Short-term provisions			
	TOTAL			
II.	ASSETS			
(1)	Non-Current Assets			
	(a) Property, Plant and Equipment & Intangible assets			
	(i) Property, Plant and Equipment			
	(ii) Intangible assets			

	Particulars	Note No	Figures as at the end of (Current reporting period) (in Rs.)	Figures as at the end of (Previous reporting period) (in Rs.)
			_____ (DD/MM/YYYY)	_____ (DD/MM/YYYY)
	(iii) Capital work-in-progress			
	(iv) Intangible assets under development			
	(b) Non-current investment			
	(c) Deferred tax assets (net)			
	(d) Long-term loans and advances			
	(e) Other non-current assets			
(2)	Current assets			
	(a) Current investments			
	(b) Inventories			
	(c) Trade receivables			
	(d) Cash and bank balances			
	(e) Short-term loans and advances			
	(f) Other current assets			
	TOTAL			

STATEMENT OF PROFIT AND LOSS

Name of the Non-Corporate Entity.....

Statement of Profit and loss for the year ended

(Rupees in.....)

	Particulars	Note	Figures for the current reporting period (in rs.) From _____ (DD/MM/YYYY) To _____ (DD/MM/YYYY)	Figures for the previous reporting period (in Rs.) From _____ (DD/MM/YYYY) To _____ (DD/MM/YYYY)
	1	2	3	4
I.	Revenue from operations		xxx	Xxx
II.	Other income		xxx	Xxx
III.	Total Income (I + II)		xxx	Xxx
IV.	Expenses			
(a)	Cost of Goods Sold			
(b)	Employee benefits expense		xxx	Xxx
(c)	Depreciation and amortization expense		xxx	Xxx
(d)	Finance Cost		xxx	Xxx
(e)	Other expenses		xxx	xxx

	Particulars	Note	Figures for the current reporting period (in Rs.) From _____ (DD/MM/YYYY) To _____ (DD/MM/YYYY)	Figures for the previous reporting period (in rs.) From _____ (DD/MM/YYYY) To _____ (DD/MM/YYYY)
	Total expenses		xxx	xxx
V	Profit before exceptional and extraordinary items & tax (III-IV)		xxx	xxx
VI	Exceptional items		xxx	xxx
VII	Profit before extraordinary items and tax (V - VI)		xxx	xxx
VIII	Extraordinary Items		xxx	xxx
IX	Profit before tax (VII- VIII)		xxx	xxx
X	Tax expense:			
(i)	Current tax		xxx	xxx
(ii)	Deferred tax		xxx	xxx
XI	Profit (Loss) for the period from continuing operations (VII-VIII)		xxx	xxx
XII	Profit/(loss) from discontinuing operations		xxx	xxx
XIII	Tax expense of discontinuing operations		xxx	xxx
XIV	Profit/(loss) from Discontinuing operations (after tax) (XII-XIII)		xxx	xxx
XV	Profit/ (Loss) (XI + XIV)		xxx	xxx

FORMATS OF FINANCIAL STATEMENTS FOR NPOS

Trusts

Societies

BALANCE SHEET

NAME OF THE NPO.....

BALANCE SHEET AS AT

(RS. IN.....)

	Particulars	Note	31 March 20XX	31 March 20XX
I	Sources of Funds			
1	NPO Funds	3	0	0
(a)	Unrestricted Funds			
(b)	Restricted Funds			
2	Non-current liabilities			
(a)	Long-term borrowings	4	-	
(b)	Other long-term liabilities	5	-	-
(c)	Long-term provisions	6	-	-
3	Current liabilities			
(a)	Short-term borrowings	4	-	-
(b)	Payables	7		
(c)	Other current liabilities	8	-	-
(d)	Short-term provisions	6	-	-
	Total		-	-

NAME OF THE NPO.....

BALANCE SHEET AS AT

	Particulars	Note	31 March 20XX	31 March 20XX
II	Application of Funds			
1	Non-current assets			
(a)	Property, Plant and Equipment and Intangible assets	9		
(i)	Property, Plant and Equipment			
(ii)	Intangible assets			
(iii)	Capital work in progress			
(iv)	Intangible asset under development			
(b)	Non-current investments	10	-	-
(c)	Long Term Loans and Advances	11	-	-
(d)	Other non-current assets (specify nature)	12	-	-
2	Current assets			
(a)	Current investments	10	-	-
(b)	Inventories			
(c)	Receivables	13	-	-
(d)	Cash and bank balances	14	-	-
(e)	Short Term Loans and Advances	11	-	-
(f)	Other current assets	15	-	-
	Total			

Income & Expenditure A/c

Name of the Non-Corporate Entity.....

Income & Expenditure A/c for the year ended

(Rupees in.....)

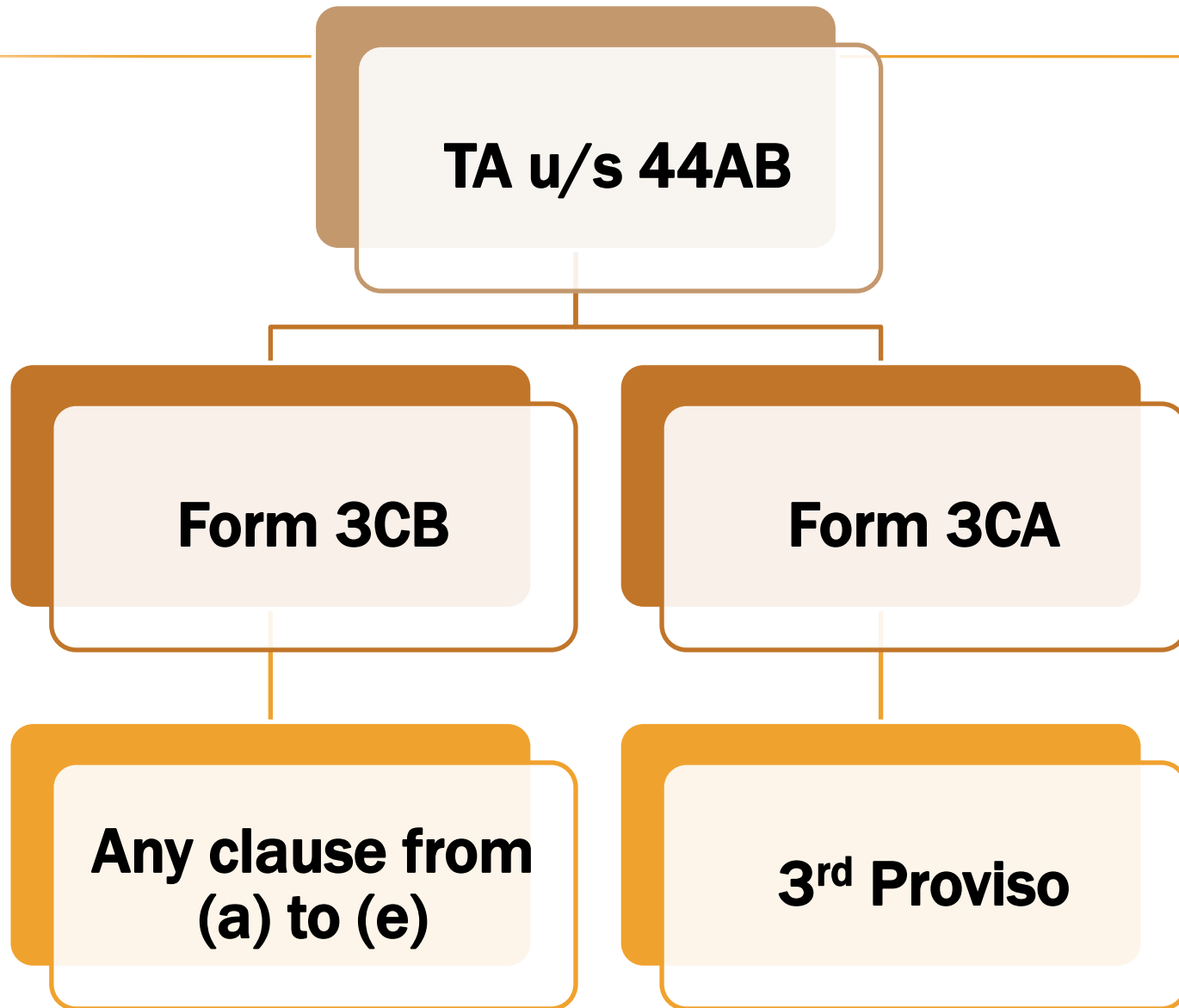
	Particulars	Note	31 March 20XX			31 March 20XX		
			Unrestri cted funds	Restric ted funds	Total	Unrest ri cted funds	Restric ted funds	Total
I	Income							
(a)	Donations and Grants							
(b)	Fees from Rendering of Services							
(c)	Sale of Goods							
II	Other Income	16					-	-
III	Total Income (I+II)						-	-

	Particulars	Note	31 March 20XX			31 March 20XX		
			Unrestri cted funds	Restric ted funds	Total	Unrest ri cted funds	Restric ted funds	Total
IV	Expenses:							
(a)	Material consumed/distributed	17					-	-
(b)	Donations/contributions paid							
(c)	Employee benefits expense	18					-	-
(d)	Depreciation and amortization expense	19					-	-
(e)	Finance costs	20					-	-
(f)	Other expenses	21					-	-
(g)	Religion/charitable expenses							
(h)	Other Expenses (specify nature)							
	Total expenses						-	-
V	Excess of Income over Expenditure for the year before exceptional and extraordinary items (III- IV)						-	-

	Particulars	Note	31 March 20XX			31 March 20XX		
			Unrestri cted funds	Restric ted funds	Total	Unrest ricted funds	Restric ted funds	Total
VI	Exceptional items (specify nature & provide note/delete if none)						-	-
VII	Excess of Income over Expenditure for the year before extraordinary items (V-VI)						-	-
VIII	Extraordinary Items (specify nature & provide note/delete if none)						-	-
IX	Excess of Income over Expenditure for the year (VII-VIII)						-	-
	Appropriations Transfer to funds, e.g., Building fund							
	Transfer from funds							
	Balance transferred to General Fund							

MATTERS FOR FS OF NON-CORPORATES

- ✘ **Can Penalties / other than business Incomes be credited to capital A/c?**
- ✘ **Are list of Trade Receivables / Payables / Unsecured Loans mandatory?**
- ✘ **Notes to the Accounts**
- ✘ **Significant Accounting Policies**
- ✘ **MSMED Act 2006**



AMENDMENTS TO 3CD

- × **Cl. 8A – Opted for special provision – S. 115BAE (Mfg. Co-op. Society) inserted**
- × **Cl. 12 – Whether PL includes – S. 44ADA added**
- × **Cl. 18 – Dep. – S. 115BAE**

AMENDMENTS TO 3CD

- × **Cl. 19 – Amts Inadmissible u/ss - added:**
 - + **S. 35ABA (capital expenditure incurred by an assessee to acquire the right to use Spectrum for telecommunication services) &**
 - + **“any other relevant section”**

AMENDMENTS TO 3CD

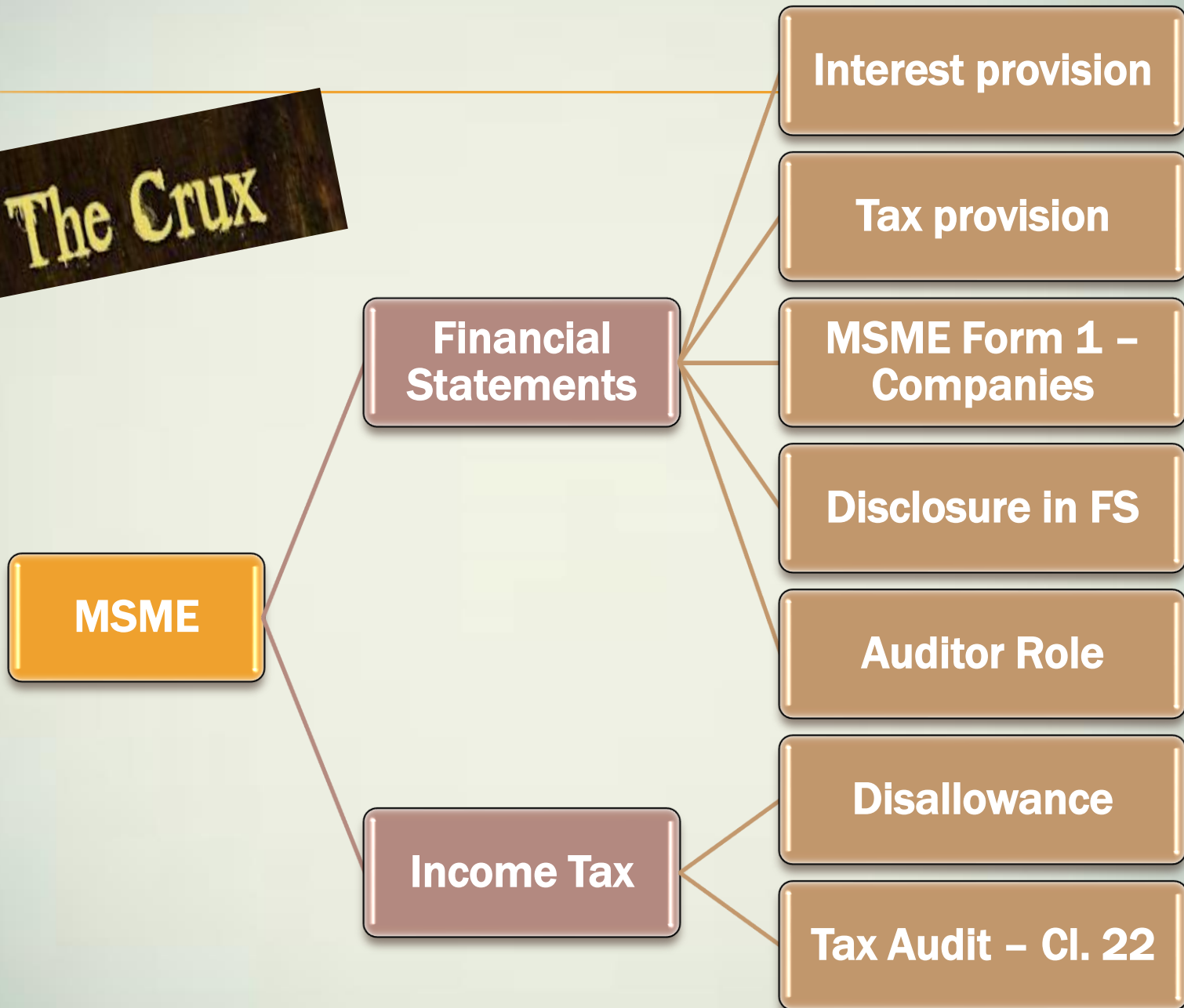
- × **Cl. 21(a) - amounts debited to PL – added:**
 - + **expenditure incurred to compound an offence under any law for the time being in force, in India or outside India,**
 - + **expenditure incurred to provide any benefit or perquisite to a person and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guideline governing the conduct of such person, etc**

AMENDMENTS TO 3CD

- × **Cl. 22 – 43B(h) added**
- × **Cl. 32(a) - brought forward loss/depreciation, add:**
 - + **not allowed u/s 115BAE**
 - + **amount adjusted by way of withdrawal of additional depreciation on account of opting for taxation under section 115BAE**

MSME
MICRO, SMALL & MEDIUM ENTERPRISES
सूक्ष्म, लघु एवं मध्यम उद्यम

The Crux



S. 43B(h) & FORM 3CD

- ✘ Cl 26 amended for S. 43B(h) on 5th March 2024
- ✘ Form 3CD again amended on 19.3.2024 –from Cl. 26 to Cl. 22
- ✘ Now Cl. 22:
 - + The amount of interest inadmissible under section 23 of the Micro, Small and Medium Enterprises Development Act, 2006 or any other amount not allowable under clause (h) of section 43B of the Income-tax Act, 1961
- ✘ No reporting in Cl 26 !!!
- ✘ Implementation Guide with respect to Changes in Form No. 3CD & No.3CEB

SITUATIONS

- × **Assessee identifies MSE suppliers**
 - + Interest
 - + S. 43B(h)
- × **Assessee does not identify**
 - + Auditor to identify through invoices
 - + MRL
- × **Non - provision of interest by assessee**
 - + Audit Report
- × **Non - disallowance u/s 43B(h) by assessee**
 - + Audit Report – Form 3CA/CB
 - + Tax provision

OTHER QUESTIONS BY SESSION CHAIR

✘ **Cl. 16 – capital receipt - Certain items which are capital receipts, *if not credited to statement of profit and loss*, which should be reported in this clause are:**

- + Profit on sale of Property Plant & Equipment
- + Profit on sale of investments
- + Receipt of non-refundable deposits
- + Forfeiture of deposits
- + Compensation for surrendering certain rights
- + Government grants in nature of promoter's contributions
- + Equity, loans and borrowings should not be stated under this sub-clause.

OTHER QUESTIONS BY SESSION CHAIR

- ✘ **Cl. 36 – Details of tax on distributed profits u/s 115-0 – Cl. been Omitted w.e.f. 1.4.2021.**
- ✘ **Cl. 36A: Whether the assessee has received any amount in the nature of dividend u/ (22)(e)? If yes, give details.**
 - + **Obtain list of all loans / advances received during the year by assessee to test applicability of s. 2(22)(e).**
 - + **In case assessee has not received any such amount during the year, no reporting required**
 - + **Obtain its list of shareholders to test 10% / 20%**
 - + **Also obtain financial statements of that company to ascertain its accumulated profits**

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CA. Pramod Jain

www.caprmodjain.com

pramodjain@lunawat.com

+91 9811073867



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