Section 43B(h) & Certificates & Reports by CAs



CA. PRAMOD JAIN
FCA, FCS, FCMA, LL.B, MIMA, DISA, IP

Shared at
Mangalam Group
11th March 2024



S. 43B

- Notwithstanding anything contained in any other provision of this Act, a deduction otherwise allowable under this Act....
- Clause (h) inserted w.e.f. 1.4.2024 i.e. AY 2024-25 i.e. FY 2023-24
 - Any sum payable by assessee to
 - a Micro or Small enterprise
 - beyond
 - Time Limit specified in s. 15 of MSMED Act, 2006

S. 43B

- Shall be allowed (irrespective of the PY in which liability to pay such sum was incurred by the assessee according to the method of accounting regularly employed by him) only in computing income referred to in section 28 of that PY in which such sum is actually paid by him
- Before 139(1) not allowed (Excluded from the Proviso)

IMPORTANT DATES

2.10.2006

• MSMED Act 2006

16.11.2007

Schedule VI of Companies Act 1956 amended

13.4.2009

Clause 22 inserted in Form 3CD

4.9.2015

Schedule III of Companies Act 2013 amended

22.1.2019

• MSME Form 1

26.6.2020

• Change in classification w.e.f. 1.7.2020

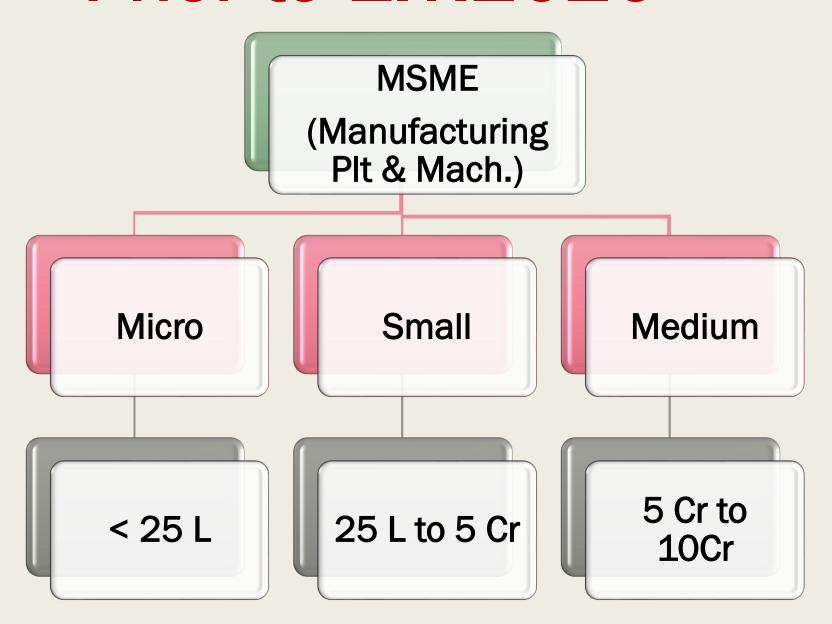
2.7.2021

MSME Ministry Office Memorandum

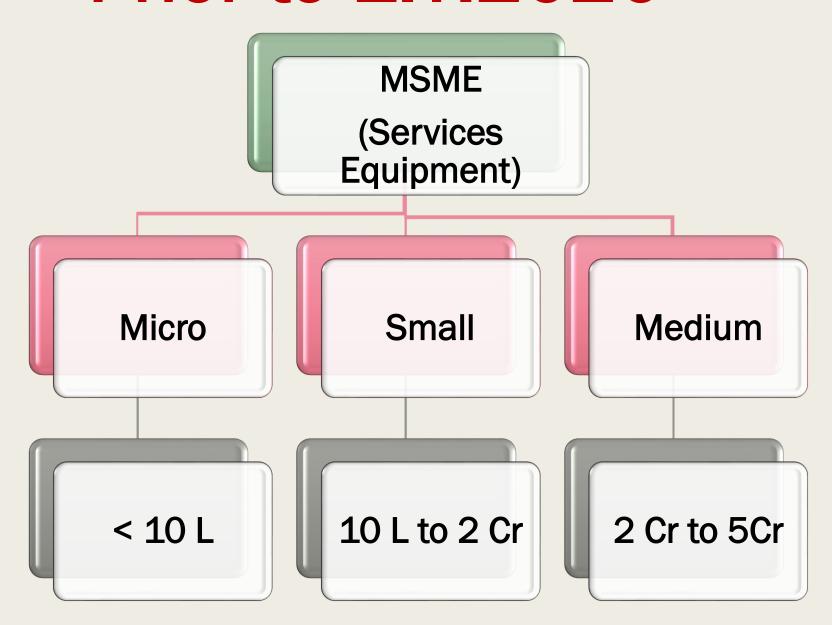
1.4.2024

• S. 43B(h) Income Tax Act

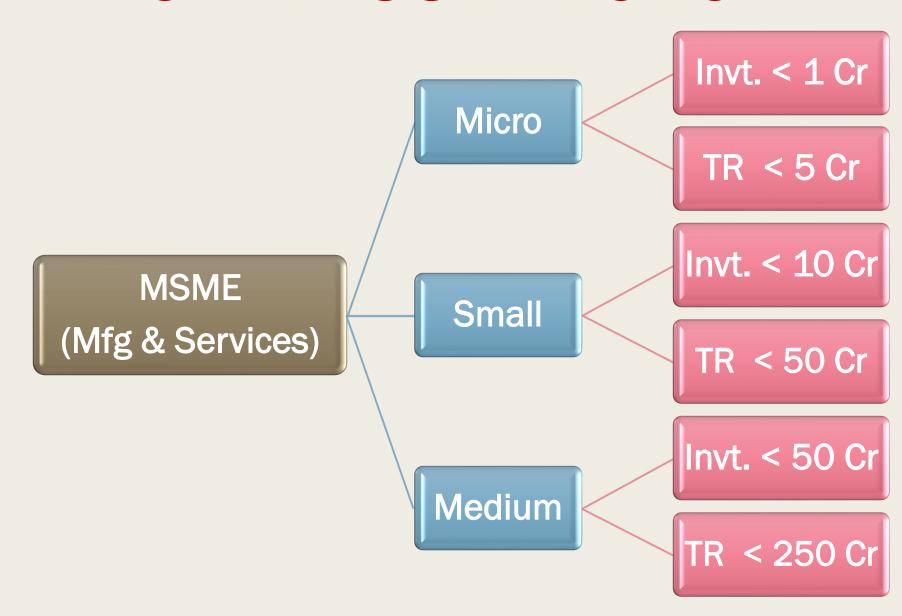
Prior to 1.7.2020



Prior to 1.7.2020



w.e.f. 1st JULY 2020



INVESTMENTS

- Calculation of investment in plant & machinery or equipment will be linked to ITR of PY
- New enterprise, invest. on self-declaration relaxation shall end after 31st March of FY in which it files its first ITR.
- Plt & Mach. Same as IT Act shall include all tangible assets (other than land & building, furniture & fittings).
- Purchase (invoice) value of Plt & Mach. or equip., whether purchased 1st hand or 2nd hand, excluding GST, if enterprise is a new.
- Cost to exclude .. Pollution control, R&D, Industrial safety devices, + not. dt. 5.10.2006

TURNOVER

- Exports of goods or services or both, shall be excluded
- Information as regards turnover and exports turnover for an enterprise shall be linked to the IT Act or CGST Act and the GSTIN.
- Turnover related figures of such enterprise which do not have PAN will be considered on self-declaration basis for a period up to 31st March 2021 and thereafter, PAN and GSTIN shall be mandatory

WHEN TO PAY

- SECTION 15 Where any supplier supplies any goods or renders any services to any buyer, the buyer shall make payment therefor on or before the date agreed upon between him and the supplier in writing or, where there is no agreement in this behalf, before the appointed day:
- Provided that in no case the period agreed upon between the supplier and the buyer in writing shall exceed 45 days from the day of acceptance or the day of deemed acceptance.
- Default if payment not made:
 - If date agreed upon in writing within that date (can't agree beyond 45 days from day of acceptance / deemed acceptance)
 - If not agreed in writing before appointed day (within 15 days of date of acceptance)

IMPORTANT DEFINITIONS

- Appointed day day following immediately after 15 days from the day of acceptance or the day of deemed acceptance of any goods or any services by a buyer from a supplier
 - Day of acceptance
 - day of the actual delivery of goods or the rendering of services; or
 - where any objection is made in writing by the buyer regarding acceptance of goods or services within 15 days from the day of the delivery of goods or the rendering of services, the day on which such objection is removed by the supplier
 - Day of deemed acceptance where no objection is made in writing by the buyer regarding acceptance of goods or services within 15 days from the day of the delivery of goods or the rendering of services, the day of the actual delivery of goods or the rendering of services

CONSEQUENCES

■ SECTION 16 - Where any buyer fails to make payment of the amount to the supplier, as required u/s 15, the buyer shall, notwithstanding anything contained in any agreement between the buyer and the supplier or in any law for the time being in force, be liable to pay compound interest with monthly rests to the supplier on that amount from the appointed day or, as the case may be, from the date immediately following the date agreed upon, at 3 times of bank rate notified by RBI.

CONSEQUENCES

■ SECTION 23 - Notwithstanding anything contained in the Income-tax Act, 1961 the amount of interest payable or paid by any buyer, under or in accordance with the provisions of this Act, shall not, for the purposes of computation of income under the Income-tax Act, 1961, be allowed as deduction.

FS REPORTING

- SECTION 22 Where any buyer is required to get his annual accounts audited under any law for the time being in force, such buyer shall furnish the following additional information in his annual statement of accounts, namely:—
- principal amount & interest due thereon (to be shown separately) remaining unpaid to any supplier as at the end of each accounting year;
- amount of interest paid by buyer in terms of s.16, along with the amount of payment made to supplier beyond the appointed day during each accounting year;
- > amount of interest due and payable for the period of delay in making payment (which have been paid but beyond the appointed day during the year) but without adding the interest specified under this Act;
- > amount of interest accrued and remaining unpaid at end of each accounting year;
- amount of further interest remaining due and payable even in the succeeding years, until such date when the interest dues as above are actually paid to the small enterprise, for the purpose of disallowance as a deductible expenditure u/s 23

OVERRIDING EFFECT

- ■SECTION 24
- The provisions of sections 15 to 23 shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

S. 43B

- Any sum payable by assessee to a
- ■Micro or Small enterprise
- ■beyond
- ■Time Limit specified in s. 15 of MSMED Act, 2006

Important Definitions

Enterprise - means an industrial undertaking or a business concern or any other establishment, by whatever name called, engaged in the manufacture or production of goods, in any manner, pertaining to any industry specified in 1st Schedule to the Industries (Development and Regulation) Act, 1951 or engaged in providing or rendering of any service or services

- **Important Definitions** Supplier means a micro or small enterprise, which has filed a memorandum with authority referred to in section 8(1), and includes
 - NSCI registered as a company
 - SIDC of a state or UT registered as company
 - any company, co-operative society, trust or a body, by whatever name called, registered or constituted under any law for the time being in force and engaged in selling goods produced by micro or small enterprises and rendering services which are provided by such enterprises

Dated:02.07.2021

OFFICE MEMORANDUM

Subject: Activities (NIC code) under MSMED Act, 2006 for Udyam Registration –Addition of Retail and Wholesale Trade- regarding

This Ministry's O.M. No. UAM/MC/01/2017-SME dated 27.06.2017 on the subject 'Activities (NIC codes) not covered under MSMED Act, 2006 for registration of Udyog Aadhaar Memorandum (UAM)' excluded certain activities from registration on UAM Portal. This O.M. was further validated for Udyam Registration vide O.M. no. 5/2(1)/2020-P&G/Policy dated 17.07.2020. Certain changes were made vide 5/2(1)/2020/E-P&G/Policy dated 01.12.2020; where it was clarified that in Table. 1 of O.M. no. UAM/MC/01/2017-SME dated 27.06.2017, NIC codes 45, 46 and 47 and the activities mentioned against these NIC codes, are not permitted for registration in Udyam Registration Portal (https://udyamregistration.gov.in).

- The Government has received various representations and it has been decided to include Retail
 and wholesale trades as MSMEs and they are allowed to be registered on Udyam Registration Portal.
 However, benefits to Retail and Wholesale trade MSMEs are to be restricted to Priority Sector Lending
 only.
- 3. Accordingly, the list of eligible additional activities under NIC Code 45, 46 and 47 are as under :

45	Wholesale and retail trade and repair of motor vehicle and motorcycles	
46	Wholesale trade except of motor vehicles and motor cycles	
47	Retail Trade Except of Motor Vehicles and motor cycles	

4. The Udyam Registration is allowed for above three NIC Codes and activities mentioned against

CASE STUDY

- Purchase 10.5.2023, paid 10.9.2023
 - No 43B(h), but interest
- Purchase 15.3.2024, paid 15.4.2024
 - No 43B(h), no interest
- Purchase 15.3.2024, paid 15.5.2024
 - 43B(h) & interest



- Registered or Not
- Traders !!
- Opening Balance
- Capital Asset
- Purchases not consumed
- Only for entities audited or for all

ISSUES

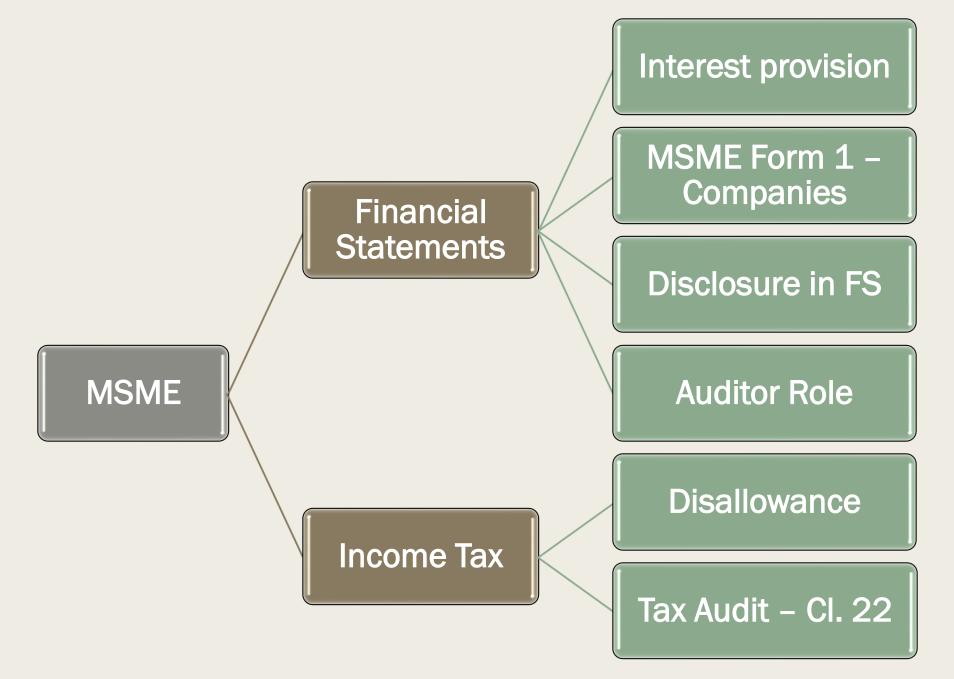
- Written agreement !!
- Date of delivery or date of invoice
- Advance received allowed on payment basis!!
- Purchase and sale with same party
- Is TDS deducted... money paid!!
- ■GST amount due!!



- ■S. 44AD / 44ADA / 44AE
- ■Interest not receivable due to agreement or waiver
- ■Interest even if delay is there but amount due paid by 31st March
- **■TDS** on interest
- MSE registration surrendered

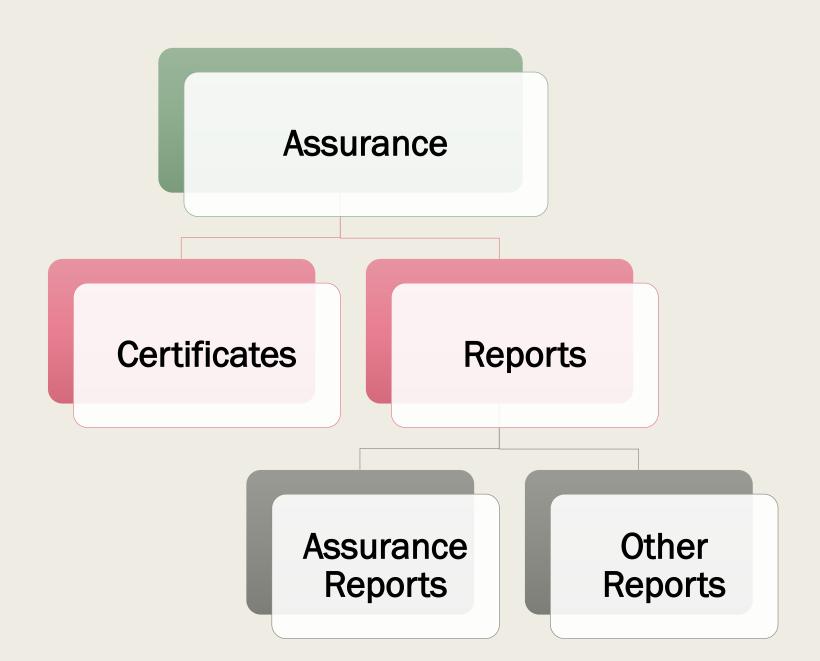
ISSUES

- Payment on LIFO basis
- Buyer is not MSE. Is he covered?
- Are Charitable Trusts covered?
- ■TDS not deducted 40(a)(ia) or 43B 3CD
- **■** Retention money
- Audit fee
- Provisions / unbilled expenses



CERTIFICATES

REPORTS



PUBLICATIONS

- Frameworks
- Statements
- Standards
- Guidance Notes
- Technical Guide
- Clarifications
- Practice Manuals
- Studies
- Other Materials

Certificates

- How are they issued?
- For what??
- Guidance Note on Reports or Certificates for Special Purposes
- UDIN

GN Illustrations

- 1. Turnover/Net Worth/Net Profit/Working Capital/similar engagement pursuant to a Tender requirement
- 2. Annual Activity Certificate for Indian Branch Office/Liaison Office of Foreign Companies
- 3. Manner of Utilization of Funds required under SEBI (LODR) Regulations, 2015
- 4. Statement of Fixed Assets for the Last Two Years in Respect of One of the Project of an Entity

Certificate Format

- EL / Agreement
- Matter to be certified
- Management Responsibility
- Practitioner's Responsibility
- Opinion
- Restriction of Use
- Signatures with UDIN

Main Objective of Audit

- To express an opinion on Financial Statement (FS)
- FS should be prepared as per applicable AS and statutory requirements
- Responsibility of FS, AS,...



- Companies (Accounting Standards) Rules, 2021 notified vide notification dated 23.06.2021
- These have replaced Companies (Accounting Standards) Rules, 2006
- Effective for accounting periods commencing on or after 1st April, 2021

Companies Act 2013

- FS has to be AS compliant:
 - FS to disclose deviation from AS
 - Reason for deviation
 - Financial effect arising of deviation
- Non-compliance
 - *MD*,
 - WTD in charge of finance
 - CFO
 - Any other person charged by Board
 - If no one all directors
 - Fine 50 k to 500 k
 - ICAI
- NFRA

Accounting Standards



Entities that are to follow AS

Companies

Other than Companies

Companies (Accounting Standards) Rules, 2021

Ind AS

ICDS

AS issued by ICAI

ICDS

AS Applicability for Companies other than Ind AS

■ Effective for Accounting Periods from 1.4.2021

Conditions	SMC			Other than SMC			
	Existing	Revised		Existing	Revised		
Turnover (excluding other Income) in PY	< 50 Cr	< 250 Cr		> 50 Cr	> 250 Cr		
Borrowing (including public deposit)	< 10 Cr	< 50 Cr		>10 Cr	> 50 Cr		

SMC Disclosure

- For FS from 1.4.2021 "The Company is a Small and Medium Sized Company (SMC) as defined in the Companies (Accounting Standards) Rules, 2021 notified under the Companies Act, 2013. Accordingly, the Company has complied with the Accounting Standards as applicable to a Small and Medium Sized Company."
- Two year wait period if change from Non-SMC to SMC

???

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

Disclosures in Notes

- AS 1 Policies
- Notes wordings
- Do List of Crs, Drs, Loans, etc form part of notes?
- MSMED 2006
- Contingent Liabilities

AS Applicability for Non-Corporates

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

Level	Turnover		В	orrowing
	Existing	Revised	Existing	Revised
I	> 50 Cr	> 250 Cr	> 10 Cr	> 50 Cr
II	1-50Cr	50-250 Cr	1-10 Cr	10-50 Cr
III	< 1 Cr	10-50Cr	< 1 Cr	2-10Cr
IV		< 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	Short Title	Companies		Non - Corporates			
No.		Non-SMC	SMC	L-I	L- II	L - III	L - IV
ı	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 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	Short Title	Compa	anies	Non - Corporates			
No.		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	Υ	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

Proprietorship (//>
Partnership



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
1.	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.)	Figures as at the end of (Previous reporting period) (in Rs.)
			(DD/MM/YYYY)	(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			

				CA. Pramou Jain
	Particulars	Note No	Figures as at the end of	Figures as at the end of
			(Current reporting	(Previous reporting period)
			period) (in Rs.)	(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.....)

		(IXOPC)	ر ۱۱۱۱۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰	
	Particulars	Note	Figures for the current	Figures for the
			reporting period (in	previous reporting
			rs.)	period (in Rs.)
			From	From
			(DD/MM/YYYY)	(DD/MM/YYYY)
			То	To
			(DD/MM/YYYY)	(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 surrent reporting period (in Rs.)	Eigures for the previous reporting period (in rs.)
			From	From
			(DD/MM/YYYY)	(DD/MM/YYYY)
			To	To
			(DD/MM/YYYY)	(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



Name of the NPO.....

Balance Sheet as at (Rs. in.....)

	Particulars	Note	31 March 20XX	31 March 20XX
ı	Sources of Funds			
1	NPO Funds	3	O	O
(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
ll	Application of Funds			
1	Non-current assets			
	Property, Plant and Equipment and			
(a)	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	-	-
	Other non-current assets (specify			
(d)	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	
Statement of Profit and loss for the year ended	
(Rupees in)	

	Particulars	Note	31 N	March 2	20XX	31	March 2	20XX
			Unrestri cted	cted		Unrest	cted	Tatal
			funds	funds	Total	funds	tunas	Total
	Income							
(a)	Donations and Grants							
	Fees from Rendering of							
(b)	Services							
(c)	Sale of Goods							
	Other Income	16					-	-
Ш	Total Income (I+II)						-	-

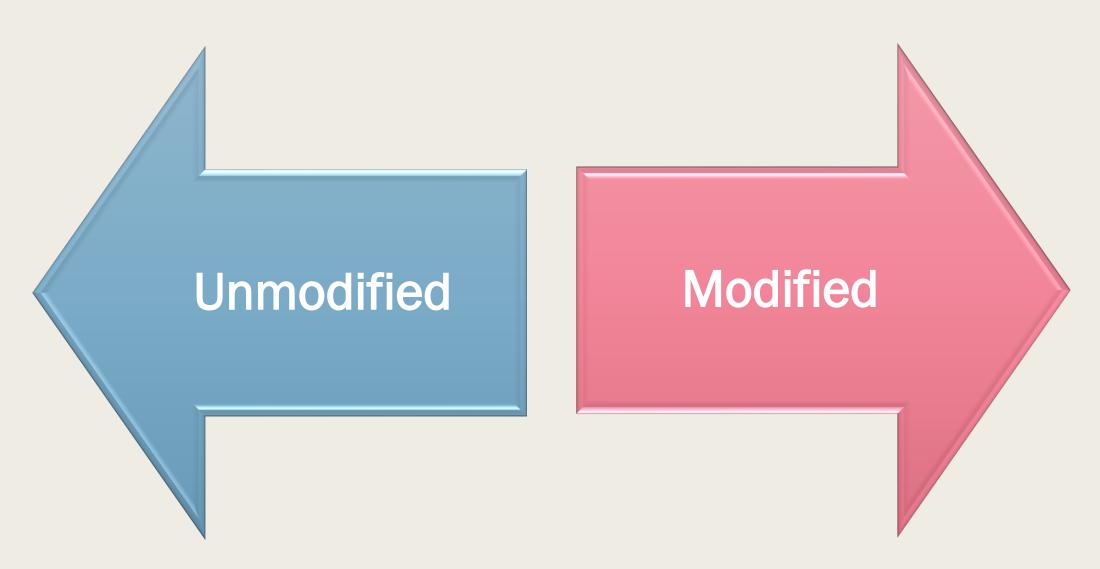
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	Particulars	Note	31 March 20XX		31 March 20XX		OXX	
			Unrestrict ed funds		Total	Unrestri cted funds	Restrict ed funds	Total
IV	Expenses:							
(a)	Material consumed/distributed	17					-	-
(b)	Donations/contributions paid							
(c)	Employee benefits 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 20	OXX	31	March 2	OXX
			Unrestricte d funds	Restricte d funds		Unrestric ted funds	Restricte d 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							

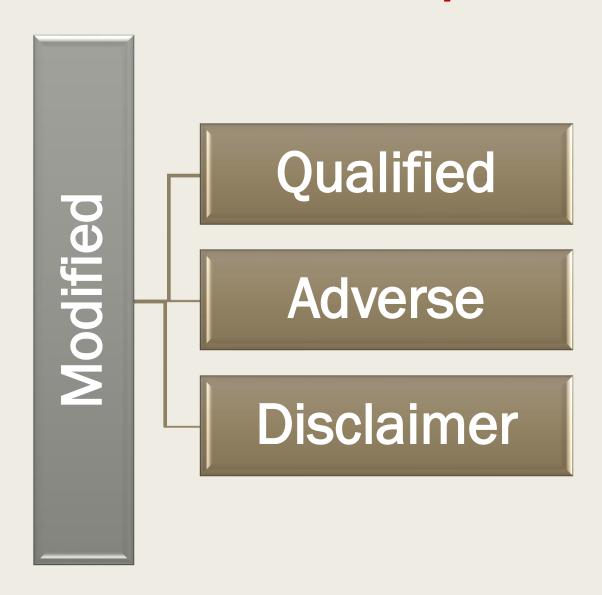
AUDIT



Types of Audit Reports



Modified Audit Reports

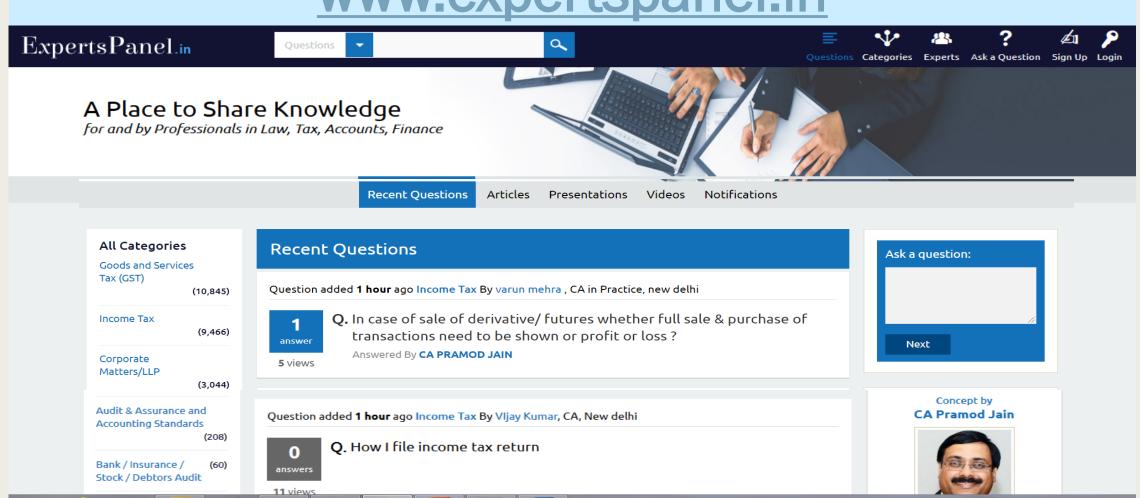


Modified Audit Reports

	Auditor's judgment about Pervasiveness of the matter				
Nature of Matter	Material BUT NOT Pervasive	Material AND Pervasive			
Financial statements are Materially misstated	Qualified Opinion (except for)	Adverse Opinion (do not present true & fair)			
Unable to obtain Sufficient Appropriate Audit Evidence	Qualified Opinion (except for)	Disclaimer of Opinion (we do not express an opinion)			

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