

PRACTICAL ASPECTS OF TAX AUDIT U/S 44AB



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**This document would help in better understanding of Practical Aspects
of Tax Audit under Section 44AB of the Income Tax Act, 1956**





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PREFACE

Tax Audit under section 44AB is an effective tool for the income-tax department to assist them in making assessment of its assesseees. After the mandatory e-filing of tax audit reports the importance of tax audits have increased tremendously. Most of the Chartered Accountants in practice conduct tax audits and the current limit for the same set by the Institute of Chartered Accountants are 60 audits per member.

Information in Form 3CD is to be supplied and filled by the assessee and is to be verified by the chartered accountant. Some times or other there are certain points in mind of the professional that how, the clauses in Form 3CD are to be verified. I have tried to bring out a small booklet on practical aspects while conducting tax audit and verifying matters in Form 3CD. I hope this booklet would be of use to not only chartered accountants in practice but also members in industry, who are to compile information in Form 3CD,

I thank the almighty God to enable me to bring out this booklet. I am grateful to *CA. Vikas Yadav* and *CA. Vijay Karan Yadav* in assisting me in compiling this booklet and thank Mr. Manuj Bhargava (Corporate Law Advisors) in bringing out this e-booklet.

Suggestions and criticism from all readers would be highly appreciated.

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24th August 2015

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He is president, founder convener and member of various associations, circles, committees, etc. of ICAI, ICSI and other prestigious bodies and associations. Financial Reporting Review Board of ICAI has appointed him as Technical Reviewer to review the financial statements of various listed Companies. He is a Peer Reviewer with Peer Review Board and also Technical Reviewer with Quality Review Board. He has authored books on “*Chartered Accountant’s Documentation and compliance under Companies Act 2013, Peer Review and Quality Review*”, “*Importance of LLP after Companies Act, 2013*”, “*Limited Liability Partnership – Law, Procedures and Taxation*”, “*Documentation for Chartered Accountants*”, “*Limited Liability Partnership – Law and Procedures with Ready Reckoner*”, “*Fringe Benefit Tax & Banking Cash Transaction Tax*”, “*Documentation for Audits*” and “*Accounting Standards and CARO*”.

He is regular faculty on various topics of Income Tax, Corporate laws, LLP, Peer Review, Quality Review etc. at various forums. He has written various articles on taxation, company law and audit in various journals. He has a vast practical experience in taxation, audit and corporate laws field and he has been giving consultancy to various corporate and non-corporate entities on taxation matters.



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STATUTORY SUMMARY

Sections	Rules	Forms	
44 AB Income Tax Act 1961	Rule 6G of Income Tax Rules 1962	3CA	Audit report under section 44AB of the Income-tax Act, 1961 in a case where the accounts of the business or profession of a person have been audited under any other law
		3CB	Audit report under section 44AB of the Income-tax Act, 1961, in the case of a person referred to in clause (b) of sub-rule (1) of rule 6G
		3CD	Statement of particulars required to be furnished under section 44AB of the Income-tax Act, 1961

BACKGROUND

The tax audit was introduced by section 11 of the Finance Act, 1984, which inserted a new section 44AB with effect from 1st April, 1985 [Assessment Year 1985-86]. This section makes it obligatory for a person carrying on business / profession to get his accounts audited by a chartered accountant, and to furnish by the 'specified date', the report in the prescribed form of such audit,

- For a Business, if the total sales, turnover or gross receipts in such business in the relevant previous year exceed or exceeds the prescribed limit (Rs. One Crore w.e.f. A.Y. 2013-14).
- For a profession, the provisions of tax audit become applicable, if his gross receipts in profession exceed the prescribed limit (Rs. Twenty five Lakhs w.e.f. A.Y. 2013-14) in the relevant previous year.
- For a Business, if the profits are deemed to be profits of such person under section 44AE or 44BB or section 44BBB, if the assessee claims his income to be lower than the limits specified under these sections.
- For a Business, if the profits are deemed to be profits of such person under section 44AD, if the assessee claims his income to be lower than the limits specified under the said section and his income exceeds the maximum amount not chargeable to tax.



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MEANING OF SALES, TURNOVER OR GROSS RECEIPTS

TURNOVER

Turnover is the aggregate amount for which sales are affected or services are rendered by an enterprise.

Not to be deducted:

1. Cash discount otherwise than that allowed in a cash memo/sales invoice is in the nature of a financing charge and is not related to turnover. The same should not be deducted from the figure of turnover.
2. If sales tax and excise duty are included in the sale price while accounting, then Turnover shall include these taxes.
3. Scrap Sales shall form part of Turnover.

To be deducted:

1. Trade discounts (i.e. Discount shown in Sales Invoice) can be deducted from sales but not the commission allowed to third parties
2. Turnover discount is normally allowed to a customer if the sales made to him exceed a particular quantity. This being dependent on the turnover, as per trade practice, it is in the nature of trade discount and should be deducted from the figure of turnover even if the same is allowed at periodical intervals by separate credit notes.
3. If the Excise duty and/or sales tax recovered are credited separately to Excise duty or Sales tax Account (being separate accounts) and payments to the authority are debited in the same account, they would not be included in the turnover.
4. Sales Returns
5. Sale proceeds of any shares, securities, debentures, etc., held as investment
6. Sale proceeds of property held as investment property
7. Sale proceeds of fixed assets

In case of Consignment Sale/Share Brokers:

If Property in Goods and its significant risk and rewards are transferred to the Agent, the Sale Price of such goods shall form part of “Turnover” for the Consignment Agent. If not, the sale price shall not be taken into “Turnover”. Share Brokers also purchase and sell shares on behalf of their customers only, and act as an agent hence the Sales of such shares shall not form part of Broker’s Turnover.



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In case of Shares, Securities & Derivatives:

Speculative Transactions/ Derivatives/ Futures & Options:

Difference of each transaction shall form part of Turnover. Both Negative & Positive Differences shall be added to arrive at the “Turnover”.

Delivery based Transactions:

Total value of sales shall be “Turnover”.

GROSS RECEIPTS

Gross Receipts will include all receipts whether in cash or in kind arising from carrying on of the business which will normally be assessable as business income under the Act.

To be included:

1. Export incentives.
2. Duty Drawback of Excise, Service Tax or Customs.
3. Lease rentals in case such income is chargeable under Business Income
4. Interest received by a Money Lender
5. Advance Received and forfeited from Customers
6. Insurance Claims – Except for Fixed Assets

Not to be included:

1. Dividend on Shares except in case of assessee dealing in shares
2. Write back of amounts payable to creditors and/or provisions for expenses or taxes no longer required.

ASSESSEE HAVING MORE THAN ONE BUSINESS

In cases, where the assessee carries on more than one business activity, the aggregate sales, turnover and/or gross receipts of all such businesses carried on by the assessee would be taken into consideration in determining whether the prescribed limit laid down under section 44AB has exceeded or not.

However, in case the Turnover of a particular business of the assessee is covered under section 44AD/AE/B/BBA and if the assessee opts to be assessed under these sections on presumptive basis, the Turnover of such business shall be excluded to arrive at the limit prescribed by section 44AB. (i.e. Rs. 1 Crore at present).



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SOME SPECIAL CASES – TRUSTS/CO-OPERATIVE SOCIETIES

A trust/association/institution carrying on business may enjoy exemptions as the case may be under sections 10(21), 10(23A), 10(23B) or section 10(23BB) or section 10(23C) or section 11. A co-operative society carrying on business may enjoy deduction under section 80P. Such institutions/associations of persons will have to get their accounts audited and to furnish such audit report for purposes of section 44AB if their turnover in business exceeds the prescribed limit.

PENALTY FOR NON- COMPLIANCE

Section 271B provides for Penalty equal to 0.5% of the total sales, turnover or gross receipts, or Rs.1.5 lakh whichever is less in case the assessee fails to get his accounts audited or fails to furnish a copy of such audit report as required under that section.

FORMS OF AUDIT REPORT

- **Form 3CA:** in the case of a person who carries on business or profession and who is required by or under any other law to get his accounts audited.
- **Form 3CB:** in the case of a person who carries on business or profession, but not being a person referred to in above-stated clause.
- **Form 3CD:** The statement of particulars given in Form No. 3CD as annexure to the audit report contains 41 clauses. The tax auditor has to report whether the particulars are true and correct. This Form is a statement of particulars required to be furnished under section 44AB. The same is to be annexed to the reports in Forms No. 3CA and 3CB as applicable.

It would be advisable for the assessee to take into consideration the following general principles while preparing the statement of particulars:

- a. Relying on the judicial pronouncements related to any matter to be reported in Form 3CD.
- b. In case there is conflict among the judicial pronouncements related to any particular issue, assessee may take follow any particular view by referring it in the report itself.
- c. The Accounting Standards & Standard on Auditing issued by the institute shall be followed during the preparation of Tax Audit Report.



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It would be advisable for the tax auditor to consider the following:

- a. If there is any difference in the opinion of the tax auditor and that of the assessee in respect of any information furnished in Form No. 3CD, the tax auditor should state both the viewpoints.
- b. If any particular clause in Form No.3CD is not applicable, he should state that the same is not applicable.
- c. In case the assessee fails to provide full particulars about a particular clause, then the tax auditor should not withhold the whole audit report. In such a case, he can qualify his report on matters in respect of which information is not furnished to him.
- d. In case the auditor relies on a judicial pronouncement, he may mention the fact as his observations in Form no. 3CA or 3CB as the case may be.

COMPLIANCE OF SA 700

It is pertinent to note that the format prescribed under Income-tax Rules is not in conformity with SA 700 issued by ICAI. Hence, while issuing report in Form 3CA / 3CB an auditor should add the following paragraphs (paragraph for financial statements required only in Form 3CB):

Assessee's Responsibility for the Financial Statements and the Statement of Particulars in Form 3CD

- The assessee is responsible for the preparation of the aforesaid financial statements that give a true and fair view of the financial position and financial performance (if applicable) in accordance with the applicable Accounting Standards issued by the Institute of Chartered Accountants of India. This responsibility includes the design, implementation and maintenance of internal control relevant to the preparation and presentation of the financial statements that give a true and fair view and are free from material misstatement, whether due to fraud or error.
- The assessee is also 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.



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Tax Auditor's Responsibility

- My/ Our responsibility is to express an opinion on these financial statements based on my/our audit. I/We have conducted this audit in accordance with the Standards on Auditing issued by the Institute of Chartered Accountants of India. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.
- An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances but not for the purposes of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of the accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.
- I/We believe that the audit evidence I/we have obtained is sufficient and appropriate to provide a basis for my/our audit opinion.
- I/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. I/ 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-WISE VERIFICATION OF FORM 3CD

1. **Clause 1:** Name of the assessee:

- a) In case of Tax audit of any branch, name of such branch should be mentioned along with the name of the assessee
- b) Verify the name of assessee from registration certificates / document of constitution / PAN allotted under various laws.



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2. **Clause 2:** Address:
 - a) Verify the address of the assessee from registration certificates allotted under various tax laws.
 - b) Address should be mentioned which has been communicated by the assessee to Income tax Dept. for the assessment purpose.
 - c) In the case of a company, the address of the registered office should also be stated
 - d) In case of Tax audit of branch, address of branch is to be mentioned.
3. **Clause 3:** Quoting of PAN is mandatory hence, obtain the copy of PAN card.
4. **Clause 4:** Whether the assessee is liable to pay Indirect Tax like Excise Duty, Service Tax, Sales Tax, Customs Duty, etc. If yes, please furnish the registration number or any other identification number allotted for the same:
 - a) Obtain from assessee the list of various Indirect taxes applicable to him.
 - b) Obtain the copy of Registration certificates allotted under various Indirect tax laws, applicable to assessee.
 - c) If assessee has multiple registrations a copy of all registration certificates is to be obtained from the assessee for appropriate disclosure under this clause.
 - d) In absence of any Regn No., copy of appropriate Identification no. allotted is obtained.
 - e) In case the auditor prima facie is of the opinion that any indirect taxes laws is applicable on the business or profession of the assessee but the assessee is not registered under the said law, **report** the same appropriately.
 - f) Obtain written representation from the assessee regarding his registration in any of the indirect tax laws.
5. **Clause 5:** Status mentioned must belong to the different classes of assesses included in the definition of “person” (sec. 2(31) of the Act).
6. **Clause 6:** Quote the previous year as per the relevant year for which the audit is being conducted.
7. **Clause 7:** Quote the assessment year as per the relevant year for which the audit is being conducted.
8. **Clause 8:** Indicate the Relevant Clause of section 44AB under which the audit has been conducted:
Verify the applicability of clauses of **sec. 44AB**
 - a) In case of business, if turnover/gross receipt exceeds Rs. 1cr.



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- b) In case of profession, if gross receipt exceeds Rs. 25 lacs.
 - c) Tax audit is in purview of 44AE, 44BB & 44BBB
 - d) Tax audit is in purview of 44AD
9. **Clause 9:** If firm or Association of Persons, indicate names of partners/members and their profit sharing ratios and if there is any change in partners/ members or their profit sharing ratio from the last date of preceding year, the particulars of such change:
- a) Obtain the certified copies partnership deeds and other relevant documents.
 - b) Have all the changes, taken place in constitution or profit sharing ratio since last date of preceding year been mentioned.
 - c) Verify acknowledgement of filing of notice of change to Registrar of firms.
 - d) Whether relevant facts have been mentioned in case, share of member of AOP is indeterminate.
 - e) Obtain written representation.
10. **Clause 10:** Nature of business or profession (if more than one business or profession is carried on during the previous year, nature of every business or profession) and If there is any change in the nature of business or profession, the particulars of such change.
- a) Whether change in nature of business/business line/permanent discontinuance is mentioned?
 - b) Whether any such change occurring due to reconstruction/reorganization has also been mentioned?
 - c) Review the minutes of the meeting approving the change in business. Obtain the declaration from the assessee w.r.t. such change.
11. **Clause 11:** Whether books of account are prescribed under section 44AA, if yes, list of books so prescribed with the address at which the books of accounts are kept and nature of relevant documents examined:
- a) Obtain from the assessee a complete list of books of accounts maintained by him either computerized or otherwise. (both financial & non-financial records)
 - b) Have appropriate marks of identification been made, to ensure identification of books of accounts produced before us?
 - c) In case of manufacturing/trading, has assessee maintained the quantitative records of stores, raw material & finished goods.
 - d) In case of company assessee, verify the form filed with ROC regarding maintenance of books at a place other than registered office.
12. **Clause 12:** Whether the Profit and Loss Account includes any Profits & Gains assessable on presumptive basis, if yes, indicate the amount and the relevant section:



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- a) In case separate set of books of accounts are not maintained, verify the apportionment of common expenditures among normal business and business under presumptive taxation.
 - b) In case separate set of books of accounts are maintained, it poses no problem for the tax auditor in ascertaining the amount of profit to be disclosed.
13. **Clause 13(a),(b),(c):** Method of accounting employed in the previous year. In case of any change furnish details of such change and its effect on the profit or loss:
- a) Ensure that a company can't follow any method of accounting except mercantile system.
 - b) Review the financial statement so as to obtain the understanding of method of accounting being followed.
 - c) Ensure that any change in the method of accounting employed is appropriately disclosed and the effect thereof on the profit/loss is also disclosed. In case change is not quantifiable, appropriate facts need to be disclosed.
14. **Clause 13(d):** Details of deviation, if any, in the method of accounting employed in the previous year from accounting standards prescribed under Section 145 and the effect thereof on the Profit or Loss:
- Review the financial statements to ensure no deviations, from AS notified by department exist and if exist, it must be appropriately disclosed with the effect thereof on the profit/loss.
15. **Clause 14:** Method of valuation of closing stock in the previous year and details of deviation, if any, from the method of valuation prescribed under Section 145A, and the effect thereof on the:
- a) Obtain the written representation on method of valuation of stock employed.
 - b) Ensure from financials and store record that inclusive method is being followed by the assessee.
 - c) Verify the amount of duties from the books and with purchase/sale invoices.
 - d) In case of any deviation from the method prescribed under section 145A of the act, verify the reconciliation made as inclusive method too has no effect on profit/loss (as per exclusive method).
16. **Clause 15:** Details of capital asset converted into stock in trade in prescribed format:
- a) Verify the date of acquisition & cost of acquisition of capital asset (as per AS 10), from purchase invoice and cash/bank account (for cartage etc.)



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- b) Verify the books/fixed asset register for ascertaining the particulars of asset and the amount at which it is converted into stock.
17. **Clause 16:** Specified amounts not credited to the Profit and Loss Account:
- a) Obtain written representation i.r.o. all the items under this clause
 - b) Ensure that speculation business is considered as distinct and separate business from others.
 - c) Verify relevant documents, orders and correspondence to determine the amount of drawback or refund admitted by the authority during the relevant previous year.
 - d) Verify the amount of escalation claim accepted during the relevant previous year from the terms of relevant contracts.
 - e) Scrutinize all credit items so as to ensure that all incomes (revenue or capital nature) have been credit in the statement of profit/loss (considering the provisions of AS-9).
18. **Clause 17:** Where any land or building or both is transferred during the previous year for a consideration less than value adopted or assessed or assessable by any authority of a State Government referred to in Section 43CA or 50C:
- a) Obtain the list of all properties (i.e. Land or Building) along with complete address transferred during the previous year by the assessee and fall under the purview of Section 43CA or 50C.
 - b) In case property is registered, verify the value of property assessed/ assessable from registered sale deed.
 - c) In case of unregistered property, verify relevant documents from concerned authority, or representation of third party experts.
 - d) Verify the amount of consideration from the relevant sale deed or agreement to sale.
19. **Clause 18:** Particulars of depreciation allowable as per the Income tax act 1961 in prescribed format:
- a) Verify the classification of assets under blocks either as per the nature and use of asset or any pronouncement or any expert certificate.
 - b) Verify that rate of depreciation is in accordance with Income tax rules 1962.
 - c) Verify actual cost of assets as per the provisions of section 43(1) of the Act and also ensure the compliance of AS – 10.
 - d) Examine date of put to use from FAR/excise records/production records etc.
 - e) Ensure the opening WDV of assets is same as closing WDV of previous year from financials of previous year.
 - f) Verify the detail of additions of assets from Invoices and obtain their copies.
 - g) There may be disputes in the earlier years between the assessee and the Department regarding classification, rate of depreciation etc. It will, therefore, be advisable to put



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a suitable note with regard to those items in respect of which disputes for the earlier years are not resolved up to the date of giving the audit report and it should be clarified that the amount of depreciation allowable may change as a result of any decision which may be received after the audit report is given.

- h) Ensure from books that cenvat credit has not been availed if it's included in cost of asset.
- i) Verify adjustment made of Foreign exchange gain/loss in the cost of asset, is in accordance with the provision of section 43A of the Act.
- j) Verify amount of grant/subsidy received from bank account/sanction letter and deduct its amount from cost of asset, in case it's directly attributable to the asset acquired.
- k) In case grant isn't directly attributable to the asset acquired, then proportionate amount shall be deducted from the cost.

20. **Clause 19:** Amounts admissible under specified sections:

Ensure the eligibility of expenditure for deduction as per the guidelines/notifications issued in that behalf.

21. **Clause 20(a):** Any sum paid to an employee as bonus or commission for services rendered, where such sum was otherwise payable to him as profits or dividend.{Section 36(1)(ii)}
Commission in lieu of profit (S. 32(1)(ii)) provides for deduction of any sum paid to an employee as bonus or commission for services rendered where such sum would not have been payable to him as profit or dividend, if it had not been paid as bonus or commission.

22. **Clause 20(b):** Details of Contributions received from employees for various funds as referred to in section 36(1)(va):

Verify the employment/contract details of the employees to ascertain the nature of payments and its authenticity.

23. **Clause 21(a):** Please furnish the details of amounts debited to the profit and loss account, being in the nature of capital, personal, advertisement expenditure etc.:

- a) Obtain a schedule indicating expenditure of capital nature debited to the profit and loss. Test for capital expenditure as per the principles laid down in accounting standard 10.
- b) Make sure the details are in agreement with audited schedules and other relevant supporting documents.
- c) Review the repairs and maintenance and other relevant accounts to ensure that no other capital expenditure has been charged to profit and loss account.



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- d) Check whether personal expenses have been charged to the Profit & Loss Account. Expenses of personal nature paid under a contractual obligation may be ignored.
- e) Review the advertisement, sales promotion and other relevant accounts to ensure that all such expenditure has been appropriately disclosed.
- f) Review the relevant accounts and ensure that all expenditure incurred at clubs has been appropriately disclosed.
- g) Obtain a schedule indicating the payments made under the following and verify relevant documents:
 - Penalty or fine for violation of any law
 - Expenditure which is an offence or which is prohibited by law
 - Any other penalty or fine

24. **Clause 21(b):** amounts inadmissible under section 40(a):

- a) Review the legal and professional fees and other relevant accounts and ensure that all such expenditure has been appropriately disclosed.
- b) Obtain a schedule indicating the following in respect of amounts inadmissible under section 40(a):
 - Interest, royalty, fees for technical services, which is payable outside India, on which tax has not been paid or deducted
 - Wealth tax
 - Salaries payable outside India and tax has not been paid thereon nor deducted therefrom.
 - Payment to a provident fund or other fund unless arrangement is made for tax deduction at source.

Verify the above details with audited schedules and other relevant supporting documents & agreements.

25. **Clause 21(c)(d)(e):** Amount inadmissible under section 40(b)/40(ba), 40A(3)/40A(3A), 40A(7), 40A(9), 14A, 36(1)(iii):

- a) Obtain a schedule indicating the amount inadmissible under section 40(b)/40(ba) and computation thereof, classified under the following heads :
 - Interest
 - Salary
 - Bonus
 - Commission or any other remuneration.

Verify the above schedule with the books of account of the firm and the partnership deed.



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- b) Obtain a schedule of all payments made in excess of Rs.20,000 in cash. If such payments are exempt under any of the clauses (a) to (l) of Rule 6DD, indicate it in the schedule. Ensure that the conditions for specific exemption under any of the clauses (a) to (l) of Rule 6DD are satisfied.

Notes :

- (i) Payments exceeding Rs.20,000 otherwise than by crossed cheque or draft will attract disallowance.
- (ii) This should include payments to staff by way of salary, travel allowance etc.
- (iii) Only revenue payments would be covered. Purchase of fixed assets for which cash payments are made in excess of Rs.20,000 would not be covered.
- (iv) Payment for purchase of raw materials and stocks would be covered.
- (v) As per the ICAI, in case no proper evidence for verification of the payments by crossed cheque or draft is available the report should comment that it is not possible for us to verify whether the payments in excess of Rs.20,000 have been made otherwise than by crossed cheque or bank draft as the necessary evidence is not in the possession of the assessee.

Review the above payments in the cash book and adjustments to advances/deposits to ensure that all cash payments exceeding Rs.20,000 have been included in the schedule.

- c) Provision for payment of gratuity not allowable under section 40A(7) should be verified with the audited schedules & financial statements.
- d) Whether contributions have been made to Approved Gratuity Fund, review the copy of the trust deed and rules and the order of the Commissioner of Income-tax granting recognition to the gratuity fund.
- e) Review the staff welfare and other related a/cs to verify the sum not allowable under section 40A(9) i.e. towards setting up or formation or contribution to any fund, trust, company, etc. other than ;
 - Recognised provident fund
 - Recognised gratuity fund
 - Recognised superannuation fund
 - As required by or under any other law.
- f) Verify contingent liabilities debited to the profit and loss account by scrutinizing the correspondence relating to cases and in particular the notes to the accounts to ensure that all liabilities of a disputed nature have been identified and disclosed.

26. **Clause(22):** Amount of interest inadmissible under section 23 of the Micro, Small and Medium Enterprises Development Act, 2006:



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- a) Whether the client is covered under the MSMED Act, 2006? Obtain Registration Certificate.
- b) Whether interest payable or paid by the buyer, under Section 23 of the MSMED Act, 2006, for the purposes of the computation of income under the Income-tax Act, 1961 is allowed as a deduction?
- c) Since Section 22 of the MSMED Act, 2006 requires disclosure of information, the tax auditor should cross check the disclosure made in the financial statements.
- d) Obtain list of suppliers of the assessee which fall within the purview of the definition of "Supplier" under section 2(n) of the MSMED Act, 2006.
- e) Verify from the books of account whether any interest payable or paid to the buyer in terms of section 16 of the MSME Act has been debited or provided for in the books of account.
- f) Verify the interest payable or paid as mentioned above on test check basis.
- g) Verify the additional information provided by the auditee relating to interest under section 16 of the MSME Act in his financial statement.
- h) If on test check basis, the auditor is satisfied, then the amount so debited to the profit and loss account should be reported under clause 22.

27. Clause 23: Particulars of payments made to persons specified under Section 40A(2)(b):

- a) Obtain details from the client indicating the following :
 - List of persons specified under section 40A(2)(b)
 - Details of payments made to persons specified in above list.
- b) Match the schedule with:
 - Relevant contracts/agreements with specified persons
 - Relevant supports for payments made to such specified persons.
- c) Scrutinize all items of expenditure/payments to the above persons.
- d) Review the relevant accounts to identify any payments made to persons specified under section 40A(2)(b).

Notes :

- (i) Salaries and perquisites etc paid to directors or persons having substantial interest in the company should be included in the list referred to above.
- (ii) Since disallowance in this case is at the discretion of the Income Tax Officer the total amount paid to such persons should be indicated in the schedule.
- (iii) In the case of a large company, it may not be possible to verify the list of all persons covered by this section; therefore, the information supplied by the assessee can be relied upon. It has further stated that it may be difficult to identify all payments in each and every case where the volume of transactions is rather huge and voluminous, and therefore, it may be necessary to restrict the



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scrutiny only to such payments in excess of certain monetary limits depending upon the size of the concern and volume of the business of the assessee.

- (iv) directors and their relatives of companies having a substantial interest in the company; and any person, in whose business or profession, the directors or their relatives have a substantial interest as defined in the explanation to Section 40A(2)(b).

28. **Clause 24:** Amounts deemed to be Profits and Gains under Section 33AB or 33ABA or 33AC:

Review the relevant accounts to ensure that all such amounts have been appropriately disclosed.

29. **Clause 25:** Any amount of Profit chargeable to tax under Section 41 & computation thereof:

- a) Match the profit chargeable under section 41 with its corresponding booking of loss.
- b) Review the relevant accounts to ensure that all such sums have been appropriately disclosed.

30. **Clause 26:** In respect of any sum referred to in clause (a), (b), (c), (d), (e) or (f) of Section 43B:

- a) Match the amounts and dates with audited schedules and relevant supporting documents of respective expenses. Date of realization should be verified with certificate or transaction enquiry from banks.
- b) Verify whether the cheques issued for the payments have been realized within 3 months from the due date or not.
- c) Verify the accounting policies followed in respect of sales tax, customs duty, excise duty etc and determining whether these are routed through the profit and loss account.

31. **Clause 27:** Amount of Central Value Added Tax credits availed of or utilised during the previous year and its treatment & Prior period items:

- a) Verify the Cenvat credit (opening balance, availed, utilized and closing balance) from books of accounts and from Cenvat credit returns filed.
- b) Obtain an understanding of accounting policy for the treatment of cenvat credit in statement of profit & loss.
- c) Review the items under the head prior period adjustment and the notes to the accounts to ensure all such expenditure/income has been disclosed in the above schedule.



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32. **Clause 28:** Whether during the previous year the assessee has received any property, being share of a company falling under section 56(2)(viia):
- Take note that reporting under this clause is only for a firm or a company in which public are not substantially interested.
 - Take care of transactions not regarded as transfer for this purpose – 47 (via), (vic), (vicb), (vid) & (vii)
 - Check whether during the previous year the assessee has received any property, being share of a company not being a company in which the public are substantially interested, without consideration or for inadequate consideration.
 - If yes, verify the details provided in prescribed format with the agreement entered w.r.t. such shares.
 - If shares are received without consideration, those may not have been accounted for in the books. Reporting is still to be made.
 - Reporting is to be made only when difference exceeds Rs. 50000/-
33. **Clause 29:** Whether during the previous year the assessee received any consideration for issue of shares which exceeds the fair market value of the shares as referred to in section 56(2)(viib).
- Reporting under this clause is only for a company in which public are not substantially interested
 - Whether during the previous year the assessee received any consideration for issue of shares which exceeds the face value of the share.
 - If yes, verify the FMV as per Rule 11U and 11UA of Income Tax Act.
 - Where the valuation is done by another professional, apply SA 620 'Using the work of an Auditor's Expert' and document it.
34. **Clause 30:** Detail of any amount borrowed on hundi or any amount due falling under section 69D:
Details of the amount borrowed on hundi (including interest on such amount borrowed) and details of repayment otherwise than by an account payee cheque, are required to be indicated under this clause. the tax auditor should obtain a complete list of borrowings and repayments of hundi loans otherwise than by account payee cheques and verify the same with the books of account
35. **Clause 31(a):** Particulars of each loan or deposit in an amount exceeding the specified limit mentioned in 269SS taken or accepted during the year:
- Verify loans with agreement & repayment schedule and trace its mode of acceptance.
 - Obtain satisfactory evidences where transactions have not been made by a/c payee cheque or bank draft.
 - Check any loan or deposit taken or accepted earlier was remaining unpaid.



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36. **Clause 31(b):** Particulars of each repayment of loan or deposit in an amount exceeding the specified limit mentioned in 269T made during the year:
- a) Verify loans with agreement & repayment schedule and trace its mode of payment.
 - b) Transfer/Adjustment entries regarding repayment need to be reported.
37. **Clause 31(c):-** Whether the taking or accepting loan or deposit, or repayment is falling under section 269SS and 269T:
Obtain suitable certificate from the assessee that the payments/ receipts referred to in section 269SS and 269T were made by account payee cheque or bank draft.
38. **Clause 32:-** Details of the Brought forward losses and depreciation:
- a) Examine last year financials to verify the amount of unabsorbed depreciation/ brought forward business losses/ speculation loss.
 - b) Obtain and examine the assessment orders and returns to verify the amount of brought forward loss/ unabsorbed depreciation assessed.
39. **Clause 32(b):** Check change in shareholding due to which losses cannot be carried forward in term of sec 79. Comparison to be done at the last day of current P.Y. and at the last day of every P.Y. in which loss is incurred. Comparison can be done by referring Register of Members.
40. **Clause 32(c) & 32(e):-** Speculation Loss under sec 73:
Verify from the books of account and other relevant documents as to whether the assessee is carrying on any speculation business (Sec 43(5)) and has incurred loss during current previous year.
41. **Clause 32(d)-**Details of Losses incurred in respect of a Specified business as referred to under section 73A.
Verify from the books of accounts and other relevant documents as to whether the assessee is carrying on specified business as referred to under section 35AD and has incurred loss during current previous year.
42. **Clause 33:-** Section-wise details of deductions, if any, admissible under Chapter VIA or Chapter III (Section 10A, Section 10 AA)
- a) Check whether the condition stand fulfilled or not, based on which deduction or exemption is allowable.
 - b) Verify the basis and computation of deductions & exemption.



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43. **Clause 34:-** Details as per the provisions of Chapter XVII-B or Chapter XVII-BB:
- a) Obtain a copy of TDS/ TCS return filed and check whether filed till due date.
 - b) Scrutinize the Creditors and Expenses to determine the TDS liability on the transaction.
 - c) Verify the tax deduction in relation to relevant provisions of the Act and verify challan to ascertain the amount of short deposit of tax.
 - d) The auditor shall provide further details in Clause 34(b) only with regard to the statement filed after prescribed time or not filed.
 - e) The information given in clause 34 should tally with the disallowances reported u/s 40(a) in clause 21(b) to the extent applicable.
 - f) Verify the interest paid/ payable as per the provisions of section 201(1A) and 206C(7).
44. **Clause 35(a):-** In the case of a trading concern, give quantitative details of principal items of goods traded:
Verify the quantitative details with store records and with stock take report as on 31st March of the relevant previous year.
45. **Clause 35(b):-** In the case of a manufacturing concern, give quantitative details of the principal items of raw materials, finished products and by-products :
Verify the quantitative details with store records, excise records and with stock take report as on 31st March of the relevant previous year.
46. **Clause 36:-** In the case of a domestic company, details of tax on distributed profits under section 115-O
- a) Obtain and verify the calculation of distributable profit and corporate dividend tax levied on it.
 - b) Obtain the copy of challan of corporate dividend tax, if paid.
47. **Clause 37:-** Whether any cost audit was carried out, If yes, give the details if any, of disqualification or disagreement on any matter/ item/ value/ quantity as may be reported/identified by the cost auditor:
- a) Obtain the copy of cost audit report (if applicable) and make note of any disqualification/ disagreement stated.
 - b) State the fact, in case cost audit report is not provided by the assessee.



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48. **Clause 38:-** Whether any audit was conducted under the Central Excise Act 1944, if yes, give the details if any, of disqualification or disagreement on any matter/ item/ value/ quantity as may be reported/identified by the auditor:
- a) Obtain the copy of excise audit report (if applicable) and make note of any disqualification/ disagreement stated.
 - b) State the fact, in case excise audit report is not provided by the assessee.
49. **Clause 39:-** Whether any audit was conducted under section 72A of the Finance Act 1994 in relation to valuation of taxable services. If Yes, give the details, if any, of the disqualification or disagreement on any matter/ item/ value/ quantity as may be reported/identified by the auditor:
- a) Obtain the copy of service tax audit report (if applicable) and make note of any disqualification/ disagreement stated.
 - b) State the fact, in case service tax audit report is not provided by the assessee.
50. **Clause 40:-** Details regarding turnover, gross profit, etc., for the previous year and preceeding previous year:
- a) Ensure net profit should be before tax.
 - b) Ensure that stock in trade is closing stock of finished goods (in value) only.

Note: Consider previous year figures from last years' tax audit report, and in case of no tax audit, nothing should be mentioned in that column.

51. **Clause 41:-** Please furnish the details of demand raised or refund issued during the previous year under any tax laws other than Income tax Act, 1961 and Wealth tax Act. 1957 along with details of relevant proceedings:
- Verify the demand order issued under other tax laws like Central Excise Duty, Service Tax, Customs Duty, Value Added Tax, CST, Professional Tax etc. (irrespective of which period it pertains).

52. **Signature and Stamp/Seal of the Signatory:**

Form 3CD has to be signed by the person competent to sign Form No. 3CA or Form No.3CB as the case may be. He has also to give his full name, address, membership number, firm registration number, wherever applicable, place and date.

Further, the e-filing portal requires the tax auditor to affix his Digital Signature while registering himself. He is also required to put his stamp/Seal as well.



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