

# **STUDY ON COMPLIANCES IN REPORTING IN TAX AUDIT REPORT**



**Taxation Audits Quality Review Board**  
**The Institute of Chartered Accountants of India**  
*(Set up by an Act of Parliament)*  
**New Delhi**

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# Foreword to the First Edition

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Tax Audit is one of the important areas of practice for chartered accountants. The provisions of section 44AB introduced in the year 1984 casts onerous responsibility on Chartered Accountants. With the changing times and Trade and Commerce becoming more complex, such responsibility is increasing every passing day.

Over the years, the Institute of Chartered Accountants of India (ICAI) has been guiding its members through Guidance Notes, Technical Guides, webinars etc to update them regarding frequent changes in Tax Audit related requirements. ICAI being a regulatory body, also formed Taxation Audits Quality Review Board (TAQRB) to review the audit reports submitted by members to the Tax Authorities. During the course of such review, the Board noticed certain reporting requirements which need specific attention of members. In order to bring awareness about the same, TAQRB of ICAI has taken the initiative to come out with this publication namely, '**Study on Compliances in Reporting in Tax Audit Report**'.

I appreciate and commend the efforts made by CA. Ranjeet Kr. Agarwal, Chairman, TAQRB of ICAI and CA. Abhay Chhajed, Vice-Chairman, TAQRB in bringing out this important publication.

I am sure that this publication will enable the Tax Auditors to identify areas requiring their attention while conducting tax audits.

**Date:** 20/06/2022

**CA. (Dr.) Debashis Mitra**

**Place:** New Delhi

*President, ICAI*

# Preface to the First Edition

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Tax Audit plays a very important role in improvising the tax administration and overall compliance by taxpayer thereby contributing in the growth of Taxation and Economy of a Country. Therefore, this important task of conducting Tax Audit was entrusted to Chartered Accountants long back in the year 1984.

As a regulator of the profession, ICAI has been responsible for ensuring the quality of Tax Audits conducted by its members. It came out with the Guidance Note on tax audit in the year 1985 and revised it time and again, thereby keeping ICAI members abreast of the changes that have been taking place in the tax audit report formats.

Continuing its efforts in maintaining the quality of tax audits, two major steps were taken by ICAI. Firstly, introduction of **Unique Document Identification Number UDIN** to curb the malpractice of tax audits conducted by non-members. The concept of UDIN has been widely accepted and is duly adopted by the tax authorities also as a part of process of submission of tax audit report.

Secondly, formation of **Taxation Audits Quality Review Board** in 2018 to review the tax audits conducted by its members. The Taxation Audits Quality Review Board of ICAI conducts a three-tier review of the audit reports submitted to the tax authorities and thereafter takes appropriate action with regard to non-compliances noticed thereof. The ever-changing utility of tax audit reports, without corresponding change in the notified formats led to difficulties and confusion in reporting requirements of Tax Audit. This came to the notice of the Board during such reviews, which are being brought to the notice of the respective Tax Auditors.

Looking at the need to create awareness amongst the members, the Board in the year 2020 brought out a publication "**Approach to Tax Audit under section 44AB of the Income tax Act, 1961 (Checklist)**" jointly with the Direct Taxes Committee of ICAI. The said publication proved quite useful to the members. Continuing its efforts to improvise the quality of tax audits, TAQRB of ICAI thought it fit to bring out this publication '**Study on Compliances in reporting in Tax Audit Report**' which will help and guide its members in enhancing and improving the quality of tax audit.

We wish to thank Hon'ble CA. (Dr.) Debashis Mitra, President, ICAI and Hon'ble, CA. Aniket Talati, Vice President, ICAI for their continuous support and encouragement to the initiatives of the Board. We place on record our special thanks to **CA. Pramod Jain, Immediate Past Chairman, TAQRB** for his valuable technical contribution and for the dedicated efforts taken by him to bring out this publication '**Study on Compliances in reporting in Tax Audit Report**'.

We also place on record the contribution of the Technical Reviewers, the members of Taxation Audits Quality Review Groups who reviewed the tax audit reports initially to locate the areas in the tax audit reports which need specific attention of the tax auditors. We whole heartedly thank all other members of the Board namely, CA. Chandrashekhar Vasant Chitale, CA. Durgesh Kabra, CA. Dheeraj Kumar Khandelwal, CA. Umesh Ramnarayan Sharma, CA. Dayaniwas Sharma, CA. Rohit Ruwatia Agarwal, CA. Anuj Goyal, CA. Prakash Sharma, CA. Kemisha Soni, CA. Sanjay Kumar Agarwal, CA.(Dr.) Sanjeev Kumar Singhal, Shri Chandra Wadhwa and Adv. Vijay Kumar Jhalani for their valuable contribution and unstinted support provided in reviewing the exhaustive tax audit reports.

We deeply appreciate the efforts taken by CA. Ashok Sharma, CA. Baldev Raj, CA. Satish Aggarwal, CA. Ashish Jain, CA Sanjeev Kr. Jain and CA. Pankaj Shah in comprehensively reviewing the publication and providing their valuable inputs.

Most importantly, We thank the Secretariat of the Board comprising of CA. Mukta Kathuria Verma, Secretary, TAQRB, CA. Divya Mongia, Project Associate and CA. Ali Abid, Project Associate for preparing the basic draft of this publication and rendering technical and administrative assistance in bringing out this publication.

We are sure that this publication will be of immense use to the members of ICAI and will go a long way in enhancing the quality of tax audits being conducted.

**Date:** 20/06/2022

**Place:** New Delhi

**CA. Ranjeet Kr. Agarwal**

*Chairman*

*Taxation Audits Quality Review Board of ICAI*

**CA. Abhay Kumar Chhajed**

*Vice-Chairman*

*Taxation Audits Quality Review Board of ICAI*

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# Chapter 1

## Introduction

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### 1.1 Introduction

1.1.1 Section 44AB was introduced in the Income-tax Act, 1961, by the Finance Act, 1984 with effect from 1<sup>st</sup> April, 1985 [Assessment Year 1985-86]. This section makes it obligatory for a person carrying on business 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, if the total sales, turnover or gross receipts in business in the relevant previous year exceed or exceeds the prescribed limit. For a professional, the provisions of tax audit become applicable, if his gross receipts in profession exceed the prescribed limit in the relevant previous year.

1.1.2 As observed by the then Finance Minister, while presenting the Union Budget for 1984-85, and as stated in the Memorandum explaining the provisions of the Finance Bill, 1984, the compulsory audit is intended to ensure proper maintenance of books of account and other records, in order to reflect the true income of the tax payer and to facilitate the administration of tax laws by a proper presentation of the accounts before the tax authorities. This would also save the time of the Assessing Officers considerably in carrying out the verification. The scope of section 44AB was enlarged to provide that audit under the section would be required in case of a person carrying on the business of the nature referred to in section 44AD or 44AE or 44AF (by the Finance Act 1997 w.e.f. assessment year 1998-99) or 44BB or 44BBB (by the Finance Act 2003 w.e.f. assessment year 2004-05), if such person claims that his income is lower than the amount of income deemed under these sections as presumptive income. Thereafter, Finance (No.2) Act, 2009 (w.e.f. AY 2011-12) enlarged the scope of section 44AD to encompass within its ambit the assessee covered by the provision of erstwhile section 44AF and hence, section 44AF has been omitted. While section 44AF dealt with assessee carrying on retail trade, the amended section 44AD covers all assessee carrying on eligible business except professionals as referred to in section 44AA(1), a person earning income in the nature of commission or brokerage, or a person carrying on any agency business. The scope of section 44AB was further widened by the Finance Act 2016 (w.e.f. assessment year 2017-18) by insertion of section 44ADA,

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encompassing the eligible professionals as referred to in section 44AA(1) of the Income-tax Act, 1961, under its ambit.

1.1.3 Time and again changes were made in the reporting requirements of tax audit report which not only widened the scope of audit to an incredible scale but has also demonstrated the trust and confidence entrusted upon the Chartered Accountancy Profession by the Government.

1.1.4 The *vires* of section 44AB has been upheld by Hon'ble Supreme Court in *T.D. Venkata Rao v. Union of India* [1999] 237 ITR 315 (SC). The Apex Court has made the following significant observations:

***"Chartered Accountants, by reason of their training have special aptitude in the matter of audits. It is reasonable that they, who form a class by themselves, should be required to audit the accounts of businesses whose income (sic: turnover) exceeds Rs.40 lakhs\* and professionals whose income (sic: gross receipts) exceeds Rs.10 lakhs\*\* in any given year. There is no material on record and indeed in our view, there cannot be that an income-tax practitioner has the same expertise as chartered accountants in the matter of accounts. For the same reasons the challenge under article 19 must fail, and it must be pointed out that these income-tax practitioners are still entitled to be authorised representatives of assesseees."***

1.1.5 ICAI too from time to time provided guidance to its members through Guidance Notes and Technical Guides through its Direct Taxes Committee. The first edition of the Guidance Note on Tax Audit under section 44AB of the Income-tax Act, 1961 was published in the year 1985 immediately after the introduction of tax audit provision to help members in discharging their responsibility in an efficient manner. In order to incorporate changes made by the subsequent amendments to the Finance Act, as well as judicial pronouncements, circulars etc., the said Guidance Note has been revised in the years 1989, 1998, 1999, 2005, 2013 and 2014. Thereafter, *Implementation Guide w.r.t. Notification No. 33/2018 dated 20.7.2018 effective from 20.8.2018* was published by Direct Taxes Committee. With the notification of ICDS, Direct Taxes Committee came out with another publication '*Technical Guide on Income Computation and Disclosure*

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\*(Increased to Rs. One Crore w.e.f. A.Y. 2013-14)

\*\* (Increased to Rs. Fifty Lakhs w.e.f. A.Y. 2017-18)

*Standards'*. The detailed guidance given in these publications of Direct Taxes Committee of ICAI may be duly referred by the members while conducting the tax audit.

1.1.6 Apart from providing guidance, ICAI has also a regulatory role to play. Continuing with its commitment to serve the nation and in order to improve the reporting of compliances under various taxation laws (both Direct as well as Indirect), the Council of the Institute, constituted the '*Taxation Audits Quality Review Board*' (TAQRB) in the year 2018. It was envisaged that the reviews carried out by the Board will help the members to exercise greater diligence while certifying various reports prescribed under the taxation laws and in long run would improve the overall reporting and certification done by them.

1.1.7 The Board, under its purview, can review any report prescribed under the Income-tax Act, 1961 and Rules framed thereunder and any report prescribed under the Indirect Tax Laws including Goods and Services Tax Law which are certified by a Chartered Accountant (tax auditor) in respect of certain enterprises with a view to determine, to the extent possible:

- a) Compliance with the reporting requirements prescribed under various sections of the Income-tax Act, 1961 and Rules thereunder;
- b) Compliance with the reporting requirements prescribed under various provisions of the Indirect Tax Laws including Goods and Services Tax Law and
- c) Compliance with the respective pronouncements, Guidance Notes, Technical Guides of ICAI, etc.

1.1.8 The Board may review the various reports either suo-moto or on a reference made to it in respect of taxation matters (Direct and/or Indirect) by any regulatory body including the Central Board of Direct Taxes, the Central Board of Indirect Taxes and Customs, Comptroller and Auditor General of India, State Commercial Tax Departments etc. The Board may also review the reports of the enterprises relating to which serious irregularities in taxation matters (Direct and Indirect) have been highlighted by the media reports.

1.1.9 The Board wherever finds any material non-compliance with the factors stated above, it may refer the case to the Director (Discipline) of the Institute of Chartered Accountants of India for initiating appropriate action against the tax auditor under the Chartered Accountants Act, 1949.

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1.1.10 In cases where no material non-compliances are observed by the Board, and only immaterial non-compliances are observed, the Board may not refer the case to the Director (Discipline) of the Institute of Chartered Accountants of India for initiating action against the tax auditor under the Chartered Accountants Act, 1949. In such cases, the Board would appropriately bring the non-compliance to the attention of the tax auditor by way of an advisory.

1.1.11 This publication has been compiled from the records of TAQRB and contains relevant observations on the compliance aspects of Tax Audits conducted under section 44AB of the Income tax Act, 1961 with an objective to enhance the quality of tax audit reports. For easy reference, it is written in simple and easy to understand language. This publication is not to be considered as a replacement / gist of Guidance Notes/ publications issued by Direct Taxes Committee but should be read along with them. The publications of Direct Taxes Committee pertaining to Tax Audit may be revised from time to time depending on the changes in the Act/ Tax Audit Report Format. In case, there is any conflict between the text of the above mentioned publications of ICAI and this document, the text mentioned in publications Guidance Note on Tax Audit under section 44AB of the Income tax Act, 1961/ Implementation Guide w.r.t. Notification No. 33/2 018 dated 20.7.2018 effective from 20.8.2018/ Technical Guide on Income Computation and Disclosure Standards shall prevail. It is stressed that the above-mentioned publications must be referred to for the exact and complete requirements. The Institute does not accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material contained in this publication.

## **1.2 Provisions of section 44AB**

### **1.2.1 Section 44AB reads as under:**

**Audit of accounts of certain persons carrying on business or profession.**

44AB. Every person —

- (a) carrying on business shall, if his total sales, turnover or gross receipts, as the case may be, in business exceed or exceeds one crore rupees in any previous year:

**Provided** that in the case of a person whose—

- (a) aggregate of all amounts received including amount received for sales, turnover or gross receipts during the previous year, in cash, does not exceed five per cent of the said amount; and
- (b) aggregate of all payments made including amount incurred for expenditure, in cash, during the previous year does not exceed five per cent of the said payment:

this clause shall have effect as if for the words "one crore rupees", the words "ten crore rupees" had been substituted:

**Provided further** that for the purposes of this clause, the payment or receipt, as the case may be, by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the payment or receipt, as the case may be, in cash; or

- (b) carrying on profession shall, if his gross receipts in profession exceed fifty lakh rupees in any previous year; or
- (c) carrying on the business shall, if the profits and gains from the business are deemed to be the profits and gains of such person under section 44AE or section 44BB or section 44BBB, as the case may be, and he has claimed his income to be lower than the profits or gains so deemed to be the profits and gains of his business, as the case may be, in any previous year; or
- (d) carrying on the profession shall, if the profits and gains from the profession are deemed to be the profits and gains of such person under section 44ADA and he has claimed such income to be lower than the profits and gains so deemed to be the profits and gains of his profession and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year; or
- (e) carrying on the business shall, if the provisions of sub-section (4) of section 44AD are applicable in his case and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year,

get his accounts of such previous year audited by an accountant before the specified date and furnish by that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.

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**Provided** that this section shall not apply to the person, who declares profits and gains for the previous year in accordance with the provisions of sub-section (1) of section 44AD and his total sales, turnover or gross receipts, as the case may be, in business does not exceed two crore rupees in such previous year:

**Provided further** that this section shall not apply to the person, who derives income of the nature referred to in section 44B or section 44BBA, on and from the 1<sup>st</sup> day of April, 1985 or, as the case may be, the date on which the relevant section came into force, whichever is later:

**Provided also** that in a case where such person is required by or under any other law to get his accounts audited, it shall be sufficient compliance with the provisions of this section if such person gets the accounts of such business or profession audited under such law before the specified date and furnishes by that date the report of the audit as required under such other law and a further report by an accountant in the form prescribed under this section.

Explanation— For the purposes of this section —

- (i) "accountant" shall have the same meaning as in the Explanation below sub-section (2) of section 288;
- (ii) "specified date", in relation to the accounts of the assessee of the previous year relevant to an assessment year, means date one month prior to the due date for furnishing the return of income under sub-section (1) of section 139.

1.2.2 The explanation below section 288(2) provides for the meaning of the term 'Accountant' as under:

*"accountant" means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) who holds a valid certificate of practice under sub-section (1) of section 6 of that Act, but does not include except for the purposes of representing the assessee under sub-section (1)—*

- (a) *in case of an assessee, being a company, the person who is not eligible for appointment as an auditor of the said company in accordance with the provisions of sub-section (3) of section 141 of the Companies Act, 2013 (18 of 2013); or*

- (b) *in any other case,—*
- (i) *the assessee himself or in case of the assessee, being a firm or association of persons or Hindu undivided family, any partner of the firm, or member of the association or the family;*
  - (ii) *in case of the assessee, being a trust or institution, any person referred to in clauses (a), (b), (c) and (cc) of sub-section (3) of section 13;*
  - (iii) *in case of any person other than persons referred to in sub-clauses (i) and (ii), the person who is competent to verify the return under section 139 in accordance with the provisions of section 140;*
  - (iv) *any relative of any of the persons referred to in sub-clauses (i), (ii) and (iii);*
  - (v) *an officer or employee of the assessee;*
  - (vi) *an individual who is a partner, or who is in the employment, of an officer or employee of the assessee;*
  - (vii) *an individual who, or his relative or partner—*
    - (I) *is holding any security of, or interest in, the assessee:*  
**Provided** *that the relative may hold security or interest in the assessee of the face value not exceeding one hundred thousand rupees;*
    - (II) *is indebted to the assessee:*  
**Provided** *that the relative may be indebted to the assessee for an amount not exceeding one hundred thousand rupees;*
    - (III) *has given a guarantee or provided any security in connection with the indebtedness of any third person to the assessee:*  
**Provided** *that the relative may give guarantee or provide any security in connection with the indebtedness of any third person to the assessee for an amount not exceeding one hundred thousand rupees;*

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(viii) *a person who, whether directly or indirectly, has business relationship with the assessee of such nature as may be prescribed;*

(ix) *a person who has been convicted by a court of an offence involving fraud and a period of ten years has not elapsed from the date of such conviction.*

1.2.3 Where the assessee is:

- a) a company, or
- b) a person (other than a company) whose accounts are required to be audited under this Act or under any other law for the time being in force; or
- c) a partner of a firm whose accounts are required to be audited under this Act or under any other law for the time being in force [or the spouse of such partner if the provisions of section 5A applies to such spouse]\*

the due date for furnishing the return of income under section 139(1) is the 31<sup>st</sup> day of October\*\* of the assessment year.

## **1.3 Reports of audit of accounts of persons carrying on business or profession (Tax Audit Report)**

### **Report of audit of accounts to be furnished under section 44AB.**

1.3.1 Section 44AB requires the tax auditor to submit the audit report in the prescribed form and setting forth the prescribed particulars. Rule 6G(1) provides that the report of audit of the accounts of a person required to be furnished under section 44AB shall,—

- (a) 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, be in Form No. 3CA;
- (b) in the case of a person who carries on business or profession, but not being a person referred to in clause (a), be in Form No. 3CB.

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\* w.e.f. 01.04.2021

\*\* w.e.f. 01.04.2020



1.3.2 Sub-rule (2) of Rule 6G further provides that the particulars which are required to be furnished under section 44AB shall be in Form No. 3CD.

1.3.3 Furthermore, sub-rule(3) of Rule 6G provides that the report of audit furnished under this rule may be revised by the person by getting revised report of audit from an accountant, duly signed and verified by such accountant, and furnish it before the end of the relevant assessment year for which the report pertains, if there is payment by such person after furnishing of report under sub-rule (1) and (2) which necessitates recalculation of disallowance under section 40 or section 43B.

1.3.4 As per proviso to Rule 12(2) of Income-tax Rules, where an assessee is required to furnish a report of audit specified under section 44AB of the Act, he shall furnish the same electronically.

## Chapter 2

# Reporting requirements in Tax Audit Report - A Study

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### 2.1 Conduct of Tax Audit

2.1.1 While giving the tax audit report the tax auditor will have to use his professional skill and expertise and apply such audit tests as the circumstances of the case may require, considering the contents of the audit report. The tax auditor will have to conduct the audit by applying the generally accepted auditing procedures which are applicable for any other audit. He is advised to refer to the Standards on Auditing (SAs) issued by ICAI, Guidance Note on Tax Audit under section 44AB of the Income tax Act, 1961, Technical Guide on Income on Computational Standards and Implementation Guide w.r.t. Notification no. 33/2018 dated 20.07.2018 effective from 20.08.2018 as may be relevant. In case, there is any conflict between the texts of these documents issued by ICAI and this publication, the text mentioned in above-mentioned documents issued by ICAI shall prevail.

2.1.2 Where the auditor issues Form No. 3CB, as the audit of financial statements is being done under section 44AB of the Income tax Act, 1961, the auditor should in relation to audit of the financial statements ensure compliance of:

- Accounting Standards issued by ICAI
- Standards on Auditing issued by ICAI
- Framework for presentation of Financial Statements issued by ICAI

2.1.3 The Taxation Audits Quality Review Board of ICAI has come across certain observations in review of Tax Audit reports. Some of them, which need specific attention of members, have been discussed in this publication.

### 2.2 Observations related to Form No. 3CA/ 3CB, Audit report under section 44AB of the Income -tax Act 1961

As mentioned earlier, Form No. 3CA is the format of Audit Report prescribed in Rule 6G(1) required to be furnished in case of a person who carries on

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business or profession and who is required by or under any other law to get his accounts audited.

Further, Form No. 3CB is the format of Audit Report prescribed in Rule 6G(1) required to be furnished in case of a person who carries on business or profession, but not being a person who is required to furnish Form No. 3CA.

Here the clauses (along with the relevant extracts of the requirement of the Guidance Note on Tax Audit Report under section 44AB of the Income-tax Act, 1961 (2014 edition) or other documents issued by ICAI) in respect of which irregularities have been observed in **Form No. 3CA/ 3CB** have been discussed:

### **2.2.1 REVISED SA 700, FORMING AN OPINION AND REPORTING ON FINANCIAL STATEMENTS**

2.2.1.1 The requirement as per Guidance Note on Tax Audit under section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant extracts only):

*11.9 ICAI had pursuant to the issuance of the Revised SA 700, Forming an Opinion and Reporting on Financial Statements, prescribed a revised format of the auditor's report on financial statement. Since Form No. 3CA and Form No. 3CB are required to be filed online in a preset form and the same are not in line with the requirements of SA 700, there is no specifically allocated field for providing information relating to the respective responsibilities of the assessee and the tax auditor as required in terms of the principles laid out in SA 700. However, having regard to the importance of these respective responsibility paragraphs from the perspective of the readers of the tax audit report, it is suggested that these respective responsibility paragraphs relating can be provided in the space provided for giving observations, etc., under clause (3) of Form No.3CA or Clause (5) of Form No.3CB as the case may be.*

2.2.1.2 The illustrative paragraphs on Assessee's responsibility and Tax Auditor's responsibility in respect of Form No.3CB have been given in Para 11.10 of the Guidance Note. The same may be suitably reworded to meet the situation envisaged in Form No.3CA.

**OBSERVATIONS:**

While reviewing various tax audit reports, it was observed that:

- a) Many of the tax audit reports, did not have the paragraphs relating to Assessee's responsibility and Tax Auditor's responsibility as required by the Guidance Note in respect of SA 700.
- b) Some of the tax audit reports contained a reference about the attached notes/report which mentioned these Paragraphs thereby complying with the requirement of SA 700. However, as per the Guidance Note on Tax Audit the same are specifically required to be mentioned / reported under Clause (3) of Form No.3CA or Clause (5) of Form No.3CB, as the case may be.

2.2.1.3 It is suggested that the above-mentioned observations as well as the requirements of the 'Guidance Note on Tax Audit under Section 44AB of the Income tax Act, 1961' should be kept in mind while reporting under this clause.

## **2.3 Observations related to 'Particulars to be furnished in Form No. 3CD'; PART – A**

As per Rule 6G(2) the Tax audit report in Form No. 3CA and/or Form No.3CB is to be accompanied by a statement of particulars which shall be in Form No. 3CD.

In this section, the clauses (along with the relevant extract of the requirement of the Guidance Note on Tax Audit under Section 44AB of the Income-tax Act, 1961 [2014 edition] or other documents issued by ICAI) in respect of which irregularities have been observed in Form No. 3CD have been discussed.

The requirements of clauses under **Part-A of Form No. 3CD** and the related observations on review of the tax audit report under section 44AB of the Income-tax Act, 1961 are as follows:

### **2.3.1 CLAUSE 2: ADDRESS**

2.3.1.1 The requirement as per Guidance Note on Tax Audit under Section 44AB of the Income-tax Act, 1961 is as under (relevant extract only):

*17.2 The address to be mentioned under clause (2) should be the same as has been communicated by the assessee to the Income-tax*

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*Department for assessment purposes as on the date of signing of the audit report. If the tax audit is in respect of a branch or a unit, the address of the branch or the unit should be given. In the case of a company, the address of the registered office should also be stated. In the case of a new assessee, the address should be that of the principal place of business.*

### **OBSERVATION:**

**While reviewing various tax audit reports it was observed that the address reported under this clause was different from the one mentioned in Annual report or as registered with Ministry of Corporate Affairs.**

2.3.1.2 It is suggested that the above-mentioned observation as well as the requirements of the 'Guidance Note on Tax Audit under Section 44AB of the Income tax Act,1961' should be kept in mind while reporting under this clause.

**2.3.2 CLAUSE 4: WHETHER THE ASSESSEE IS LIABLE TO PAY INDIRECT TAX LIKE EXCISE DUTY, SERVICE TAX, SALES TAX, GOODS AND SERVICE TAX, CUSTOMS DUTY, ETC. IF YES, PLEASE FURNISH THE REGISTRATION NUMBER OR GST NUMBER OR ANY OTHER IDENTIFICATION NUMBER ALLOTTED FOR THE SAME.**

2.3.2.1 The requirement as per Guidance Note on Tax Audit under Section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant extracts only):

*17.4 Under clause (4), the auditor is required to mention the registration number or any other identification number, if any, allotted, in case the assessee is liable to pay indirect taxes like excise duty, service tax, sales tax, customs duty, etc.*

.....

*17.6 ..... The levy of different types of indirect taxes on various transactions may differ from State to State. Thus, it is recommended that the auditor should obtain from the assessee the list of indirect taxes applicable to him. Once the auditor obtains this management representation, he is required to obtain a copy of the registration certificate clearly mentioning the registration number under that*

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*relevant law. For example, Service tax registration number, Excise registration number, VAT registration number/ Central Sales tax Registration number etc. The assessee may have multiple registrations for various manufacturing units, service units, godowns etc under the same law. In such circumstances also, a copy of all registration certificates is to be obtained from the assessee for appropriate disclosure under this clause. Where the indirect tax law does not require any registration, appropriate identification number may be reported in this clause. ....*

*17.8 The auditor has to keep in mind the provisions of Standard on Auditing 580 "Written Representation". 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, he should report the same appropriately.*

2.3.2.2 Further the requirement as per Implementation Guide w.r.t. Notification No. 33/2018 dated 20.07.2018 effective from 20.8.2018 is as under (relevant extracts only):

*Clause 4 of Form No. 3CD hitherto required furnishing of information as to whether the assessee is liable to pay indirect tax like excise duty, service tax, sales tax, customs duty, etc. After sales tax, goods and service tax ("GST") has also been added to the list of such taxes. Therefore, the question of whether the assessee is liable to pay goods and service tax needs to be answered, along with liability to pay other indirect taxes. Even if the liability to pay is only under the reverse charge mechanism, the fact of being liable needs to be answered in the affirmative, with the clarification that such liability is only under the reverse charge mechanism.*

*In case the assessee is liable to GST, the GST registration number, i.e., the GSTIN needs to be furnished. Where an assessee has multiple GSTIN numbers, being registered under different states as well as under Central GST, all the GSTIN numbers allotted to the assessee need to be mentioned.*

### **OBSERVATIONS:**

**While reviewing various tax audit reports, it was observed that:**

- a) Registrations under all the other Indirect Tax Laws which have been mentioned in the Report issued under Companies**

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(Auditor's Report) Order (CARO) have not been reported under this clause.

- b) Registration numbers under the Indirect Tax laws, some of which are based on assessee's PAN, did not match with the PAN as reported under clause 3 of Form No. 3CD. Appropriate reporting of this mismatch was not found under Clause (3) of Form No.3CA or Clause (3) and/or Clause (5) of Form No.3CB, as the case may be.

2.3.2.3 It is suggested that the above-mentioned observations as well as the requirements of the 'Guidance Note on Tax Audit under section 44AB of the Income tax Act, 1961' and 'Implementation Guide w.r.t. Notification No. 33 / 2018' should be kept in mind while reporting under this clause.

### 2.3.3 CLAUSE 8: INDICATE THE RELEVANT CLAUSE OF SECTION 44AB UNDER WHICH THE AUDIT HAS BEEN CONDUCTED

2.3.3.1 The requirement of this clause of Form No. 3CD is to report the relevant clause of section 44AB under which the audit has been conducted. The said clauses as per the present drop down menu in e-filing utility of tax audit report have been briefed hereunder:

- Under section 44AB(a): *In case the assessee is carrying on business and his total sales, turnover or gross receipts as the case may be, exceeds the specified limits in the relevant previous year, the auditor is required to mention clause (a) under this head.*
- Proviso to section 44AB(a):  
"Provided that in the case of a person whose—
  - (a) aggregate of all amounts received including amount received for sales, turnover or gross receipts during the previous year, in cash, does not exceed five per cent of the said amount; and
  - (b) aggregate of all payments made including amount incurred for expenditure, in cash, during the previous year does not exceed five per cent of the said payment:

*then the higher limit of "10 crore rupees" shall be applicable."*

*In case the assessee is carrying on business, where aggregate of cash receipts and cash payment exceeds the specified limits in the*

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relevant previous year, the auditor is required to mention 'Proviso to section 44AB(a)' under this head.

- Under section 44AB(b): If the assessee is carrying on profession and his gross receipts exceed fifty Lakh rupees in the relevant previous year, the auditor is required to mention clause (b) under this head.
- Under section 44AB(c): Likewise, if the audit under section 44AB is being conducted by virtue of provisions of -
  - section 44AE the auditor is required to mention clause (c)-i or
  - section 44BB the auditor is required to mention clause (c)-ii, or
  - section 44BBB the auditor is required to mention clause (c)-iii.
- Under section 44AB(d): For audit being conducted by virtue of provisions of section 44ADA, clause (d) is to be mentioned under this head.
- Under section 44AB(e): For audit being conducted by virtue of provisions of section 44AD(4), clause (e) is to be mentioned under this head.

In addition, the e-filing utility also provides for reporting as "Third proviso to section 44AB: Audited under any other law" under the drop-down option.

As per the provisions of the third proviso to section 44AB in a case where such person is required by or under any other law to get his accounts audited, it shall be sufficient compliance with the provisions of this section if such person gets the accounts of such business or profession audited under such law before the specified date and furnishes by that date the report of the audit as required under such other law and a further report by an accountant in the form prescribed under this section.

### **OBSERVATION:**

While reviewing various tax audit reports it was observed that the companies (which are required to get their accounts audited under Companies Act, 2013) had selected option (a) [Clause 44AB(a)-Total sales/turnover/gross receipts in business exceeding specified limits"] instead of option "Third Proviso to section 44AB: Audited under any other law".



2.3.3.2 It is suggested that reporting be done in line with the reporting requirement of the relevant clause of section 44AB of the Income-tax Act, 1961.

## **2.4 Observations related to ‘Particulars to be furnished in Form No. 3CD’; PART – B**

The requirements of clauses under **Part-B** of **Form No. 3CD** and the observations on review of the tax audit report under section 44AB of the Income-tax Act, 1961 are discussed as follows:

### **2.4.1 CLAUSE 10:**

**(A) 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)**

**(B) IF THERE IS ANY CHANGE IN THE NATURE OF BUSINESS OR PROFESSION, THE PARTICULARS OF SUCH CHANGE**

2.4.1.1 The requirement as per Guidance Note on Tax Audit under section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant extracts only):

*19.1 In regard to the nature of business, the principal line of each business is to be determined and stated in this clause, i.e., the sector in which the business or profession falls such as manufacturing, trading, commission agent, builder, contractor, professionals, service sector, financial service sector or entertainment industry. In case of a person belongs to service sector the nature of each type of service should be broadly stated. Thereafter, the auditor is required to mention the sub-sector pertaining to the sector selected.*

*19.2 Information has to be furnished in respect of each business. The code to be mentioned against the nature of business pertains to the main area of business activity.*

*19.3 Any material change in the nature of business should be precisely set out. The change will include change from manufacturer to trader as well as change in the principal line of business. .... Likewise, any addition to or permanent discontinuance of, a particular line of business may also amount to change requiring reporting. However,*

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*temporary suspension of the business may not amount to change and therefore need not be reported.*

*19.4 A review of business report or the minutes of meetings would enable the tax auditor to note the changes, if any. Based thereon, he may make necessary enquiries and seek information and determine whether any change has occurred or not. If need be, the tax auditor should get a declaration from the assessee regarding change in the nature of business, if any.*

*19.5 In the case of business reorganization/ reconstruction if there is a similar line of activity, no reference needs to be made. However, if a new line of activity emerges because of business reorganization/ reconstruction, the same may be stated. In the case of restructuring, if any line of activity is being hived off, the same may also be reported.*

### **OBSERVATION:**

**While reviewing various tax audit reports it was observed that codes for business or profession for all main activities (principal line of each of the businesses) were not reported. Where they could be located clearly from the Annual report.**

2.4.1.2 It is suggested that the above-mentioned observation as well as the requirements of the 'Guidance Note on Tax Audit under Section 44AB of the Income tax Act,1961' should be kept in mind while reporting under this clause.

### **2.4.2 CLAUSE 11:**

- (A) WHETHER BOOKS OF ACCOUNT ARE PRESCRIBED UNDER SECTION 44AA, IF YES, LIST OF BOOKS SO PRESCRIBED.**
- (B) LIST OF BOOKS OF ACCOUNT MAINTAINED AND THE ADDRESS AT WHICH THE BOOKS OF ACCOUNT ARE KEPT \_\_\_\_\_ (IN CASE BOOKS OF ACCOUNT ARE MAINTAINED IN A COMPUTER SYSTEM, MENTION THE BOOKS OF ACCOUNT GENERATED BY SUCH COMPUTER SYSTEM. IF THE BOOKS OF ACCOUNT ARE NOT KEPT AT ONE LOCATION, PLEASE FURNISH THE ADDRESSES OF LOCATIONS ALONG WITH THE DETAILS OF BOOKS OF ACCOUNT MAINTAINED AT EACH LOCATION.)**
- (C) LIST OF BOOKS OF ACCOUNT AND NATURE OF RELEVANT DOCUMENTS EXAMINED.**

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2.4.2.1 The requirement as per Guidance Note on Tax Audit under Section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant extracts only):

*20.2 The CBDT under Rule 6F has prescribed the books of account and other documents to be kept and maintained by a person carrying on certain professions specified in sub-section (1) of section 44AA. As such, every person carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or authorised representative or film artist and whose total gross receipts exceed one lakh fifty thousand rupees in all the three years immediately preceding the previous year, or where the profession has been newly set up in the previous year, his total gross receipts in the profession for that year are likely to exceed the said amount, is required to maintain the following books of account:*

1. Cash book.
2. Journal, if the accounts are maintained according to the mercantile system of accounting.
3. Ledger.

*20.3 In the case of a person for whom the books of account have been prescribed under rule 6F, the list of books so prescribed have to be stated under clause 11(a). ..... Sometimes an assessee may carry on multiple activities. Books of account might have been prescribed for one of the activities. In that case, mention may be made of the activity for which books have been prescribed.*

*20.4 The tax auditor should obtain from the assessee a complete list of books of account and other documents maintained by him (both financial and non-financial records) and make appropriate marks of identification to ensure the identification of the books and records produced before him for audit. The list of books of account maintained by the assessee should be given under clause 11(b).*

*20.9 In case, where books of accounts are maintained and generated through computer system, the auditor should obtain from the assessee the details of address of the place where the server is located or the principal place of business/Head office or registered office by whatever name called and mention the same accordingly in clause 11(b).*

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20.10 Books of account examined would constitute the books of original entry and the other books of account. In addition to the list of books of accounts examined, the auditor is required to mention the nature of relevant documents examined also. Since the assessee is required to maintain evidence such as bills, vouchers, receipts, debit note, credit note, inventory register, agreements, orders etc., the auditor generally examines these documents while conducting audit. The underlying documents would differ from assessee to assessee depending on the nature of activity carried on by the assessee. Reference to such supporting evidence/ relevant documents is also required to be made under this clause. Attention is drawn to Para 14.3 and 14.4 for guidance with regard to the term “relevant documents”

14.3 The auditor is required to examine not only the books of accounts but also other relevant documents directly related to transactions reflected in the books of accounts like original purchase invoice, copy of bank statements, bills, vouchers, various agreements/ contracts or any other document on the basis of which preliminary entries are passed in the books of accounts.

### **OBSERVATIONS:**

While reviewing various tax audit reports, it was observed that:

- a) For Companies, 'NO' books of account have been specifically prescribed under section 44AA of the Income-tax Act, 1961 and /or under Rule 6F of the Income-tax Rules, 1962. In some cases, 'YES' was reported while 'NO' should have been reported under this clause.
- b) In various cases, location of maintenance of books of account was not reported while the same is the requirement of the format as well as the Guidance Note on tax audit under section 44AB of the Income-tax Act, 1961.
- c) Also, the fact that the books of account are maintained in a computer system was not reported in many cases.
- d) The various other relevant documents examined such as bills, vouchers, receipts, debit note, credit note, inventory register, agreements, orders, original purchase invoice, copy of bank statements, various agreements/ contracts or any other document on the basis of which preliminary entries are passed in the books of account, have missed reporting in various cases. As

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per para 20.10 of the Guidance Note, reference to such supporting evidence/ relevant documents is also required to be made under sub-clause 11(c).

2.4.2.2 It is suggested that the above-mentioned observations as well as the requirements of the 'Guidance Note on Tax Audit under Section 44AB of the Income tax Act,1961' should be kept in mind while reporting under this clause.

### 2.4.3 CLAUSE 13:

(d) WHETHER ANY ADJUSTMENT IS REQUIRED TO BE MADE TO THE PROFITS OR LOSS FOR COMPLYING WITH THE PROVISIONS OF INCOME COMPUTATION AND DISCLOSURE STANDARDS NOTIFIED UNDER SECTION 145(2)

(e) IF ANSWER TO (D) ABOVE IS IN THE AFFIRMATIVE, GIVE DETAILS OF SUCH ADJUSTMENTS:

		INCREASE IN PROFIT (RS.)	DECREASE IN PROFIT (RS.)	NET EFFECT (RS.)
ICDS I	ACCOUNTING POLICIES			
ICDS II	VALUATION OF INVENTORIES			
ICDS III	CONSTRUCTION CONTRACTS			
ICDS IV	REVENUE RECOGNITION			
ICDS V	TANGIBLE FIXED ASSETS			
ICDS VI	CHANGES IN FOREIGN EXCHANGE RATES			
ICDS VII	GOVERNMENTS GRANTS			
ICDS VIII	SECURITIES			
ICDS IX	BORROWING COSTS			
ICDS X	PROVISIONS, CONTINGENT LIABILITIES AND CONTINGENT ASSETS			
	TOTAL			

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### (f) DISCLOSURE AS PER ICDS:

(I)	ICDS I - ACCOUNTING POLICIES
(II)	ICDS II - VALUATION OF INVENTORIES
(III)	ICDS III - CONSTRUCTION CONTRACTS
(IV)	ICDS IV - REVENUE RECOGNITION
(V)	ICDS V - TANGIBLE FIXED ASSETS
(VI)	ICDS VII - GOVERNMENTS GRANTS
(VII)	ICDS IX - BORROWING COSTS
(VIII)	ICDS X - PROVISIONS, CONTINGENT LIABILITIES AND CONTINGENT ASSETS

2.4.3.1 The disclosure requirements for notified ICDS as per '*Technical Guide on Income Computation and Disclosure Standards*' issued by Direct Taxes Committee of ICAI can be referred through the link: <https://resource.cdn.icai.org/45963dtdc36184.pdf>

### OBSERVATIONS:

While reviewing various tax audit reports, it was observed that:

- a) If any adjustment is required to be made to the profits or loss for complying with the provisions of income computation and disclosure standards, then details of such adjustments are required to be reported under clause 13(e). In such cases under clause 13(d) 'YES' is to be selected from the drop-down menu in the e-filing utility. Once the same is selected, the form enables reporting details of such adjustments under clause 13(e). In many cases 'NO' was selected under clause 13(d), which disabled reporting under clause 13(e), however, details of such adjustments were found to be reported under clause 13(f) (i.e., reporting disclosures as per ICDS). Selection of 'NO' in clause 13(d) is inappropriate in cases where adjustment is to be reported under clause 13(e).
- b) Clause 13(f) requires disclosures in respect of certain notified ICDS, which was not done in many cases. In few cases, disclosures were made where any deviation from the notified ICDS was encountered.

As per the disclosure requirement under ICDS, reporting is to be done in respect of all of the notified ICDS except:

- ICDS VI (Changes in Foreign Exchange Rates) and
- ICDS VIII (Securities).

Further, for ICDS V (Tangible Fixed Assets), the prescribed disclosure requirement is similar to the requirements of clause 18 of Form No. 3CD. Accordingly, reference to reporting as done under clause 18 may be given.

- c) As per disclosure requirements of ICDS – II (Valuation of Inventories), 'the accounting policies adopted in measuring inventories including the cost formulae used' are to be reported.

Further, as per Para 3 of the ICDS –II

- *inventories shall be valued at "cost OR net realisable value whichever is lower"*.

As per Para 5 of the Revised AS 2

- *inventories shall be valued at "lower of cost AND net realisable value"*.

In few cases, the accounting policies reported were as per the language prescribed in Para 5 of the Revised AS-2 (or IND AS-2 wherever applicable) and not as per Para 3 of the ICDS –II. The reporting under clause 13(f) is required to be done as prescribed by the ICDS, which was not done. There could be a limitation in the form uploaded on IT Portal, which provides certain wordings in the drop down list, however the auditor should ensure that correct valuation method is mentioned in the hard copy issued to the auditee.

2.4.3.2 It is suggested that the above-mentioned observation as well as the requirements of the 'Technical Guide on Income Computation and Disclosure Standards' should be kept in mind while reporting under this clause.

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### 2.4.4 CLAUSE 14:

(a) METHOD OF VALUATION OF CLOSING STOCK EMPLOYED IN THE PREVIOUS YEAR.

(b) IN CASE OF DEVIATION FROM THE METHOD OF VALUATION PRESCRIBED UNDER SECTION 145A, AND THE EFFECT THEREOF ON THE PROFIT OR LOSS, PLEASE FURNISH:

SERIAL NUMBER	PARTICULARS	INCREASE IN PROFIT (RS.)	DECREASE IN PROFIT (RS.)

2.4.4.1 The requirement as per Guidance Note on Tax Audit under section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant extracts only:)

23.2 *The method of valuation followed by the assessee having regard to the articles or goods dealt in or manufactured by the assessee, should be clearly indicated. Some examples are given below:*

- (i) *raw material at cost or net realisable value whichever is lower,*
- (ii) *finished goods at cost or net realizable value whichever is lower.*

23.3 *In sub-clause (a) of clause 14 of Form No.3CD, the reference is made to "closing stock". The expression "stock-in-trade" means finished goods and raw materials. Since sub-clause (b) refers to section 145A where the term "inventories" is used, the term "closing stock" will include all items of inventories. AS-2 defines the term "inventories" to include finished goods, raw materials, work-in-progress, materials, maintenance supplies, consumables and loose tools. Therefore, method of valuation of items of inventories will have to be given under sub-clause (a).*

23.7 *The details of deviation, if any, from the method of valuation prescribed under section 145A, and the effect thereof on the profit or loss have to be stated under clause 14(b).*

23.11 *It may be pointed out that the "inclusive method" is not permitted by AS-2 which is made mandatory from accounting year beginning on or after 01.04.1999. Further, in the Guidance Note on Accounting for CENVAT the second method (inclusive method) has been withdrawn*



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*with effect from accounting year commencing from 1.4.1999. In view of the above, the adjustments under section 145A will have to be made in all cases where 'exclusive method' is followed.*

### **METHOD OF ACCOUNTING IN CERTAIN CASES**

**Provisions of section 145A shall be read as under:**

*For the purpose of determining the income chargeable under the head "Profits and gains of business or profession" —*

- (i) the valuation of inventory shall be made at lower of actual cost or net realisable value computed in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145;*
- (ii) the valuation of purchase and sale of goods or services and of inventory shall be adjusted to include the amount of any tax, duty, cess or fee (by whatever name called) actually paid or incurred by the assessee to bring the goods or services to the place of its location and condition as on the date of valuation;*
- (iii) the inventory being securities not listed on a recognised stock exchange, or listed but not quoted on a recognised stock exchange with regularity from time to time, shall be valued at actual cost initially recognised in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145;*
- (iv) the inventory being securities other than those referred to in clause (iii), shall be valued at lower of actual cost or net realisable value in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145:*

***Provided*** that the inventory being securities held by a scheduled bank or public financial institution shall be valued in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145 after taking into account the extant guidelines issued by the Reserve Bank of India in this regard:

***Provided further*** that the comparison of actual cost and net realisable value of securities shall be made category-wise.

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As per 'Technical Guide on Income and Computation and Disclosure Standards' (relevant extracts only):

*"6.4.....the taxpayer would be required to prepare the memorandum account to demonstrate that vis a vis inclusive method, it is tax neutral. This will be in compliance with section 145A and ICDS".*

### **OBSERVATIONS:**

**While reviewing various tax audit reports, it was observed that:**

- a) **Method of valuation has not been reported under clause 14(a) for each item of inventories separately (be it raw materials, work-in-progress, materials, maintenance supplies, consumables and loose tools) as suggested by the Para 23.3 of the Guidance Note.**
- b) **In many cases, valuation was done as per AS 2 or IND AS 2 i.e., exclusive method was followed. In all such cases details of deviations encountered between exclusive method of valuation and inclusive method of valuation as prescribed under section 145A of the Income- tax act and effects of inclusion of duties & taxes as suggested by the Para 23.11 of the Guidance Note are remained to be reported.**
- c) **As per the reporting requirement of clause 14(a), method of valuation of closing stock employed in the previous year is to be reported. In few cases, the reporting as prescribed for valuation of inventories as per Revised AS-2 (or IND AS-2 wherever applicable) was not done. Instead, reporting as per ICDS was done.**

2.4.4.2 It is suggested that the above-mentioned observations as well as the requirements of the 'Guidance Note on Tax Audit under Section 44AB of the Income tax Act, 1961' and 'Technical Guide on Income and Computation and Disclosure Standards' should be kept in mind while reporting under this clause.

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**2.4.5 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, PLEASE FURNISH:**

DETAILS OF PROPERTY	CONSIDERATION RECEIVED OR ACCRUED	VALUE ADOPTED OR ASSESSED OR ASSESSABLE	WHETHER PROVISIONS OF SECOND PROVISO TO SUB- SECTION (1) OF SECTION 43CA OR FOURTH PROVISO TO CLAUSE (X) OF SUB-SECTION (2) OF SECTION 56 APPLICABLE? [YES/NO]

2.4.5.1 The requirement as per Guidance Note on Tax Audit under Section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant extracts only):

*26.1 Section 43CA is applicable where the assessee has transferred an asset (other than a capital asset) being land or building or both and the value of such an asset is less than the value adopted or assessed or assessable by any State Government authority for the purpose of payment of stamp duty. In such a case for purpose of computing profit & gains from such transfer, the value so adopted or assessed or assessable shall be deemed to be the full value of consideration.*

*26.2 Section 50C is applicable where the assessee has transferred a capital asset being land or building or both and the value of such an asset is less than the value adopted or assessed or assessable by any State Government authority for the purpose of payment of stamp duty. In such a case, for purpose of section 48, the value so adopted or assessed or assessable by stamp duty authority shall be deemed to be the full value of consideration.*

**OBSERVATION:**

**While reviewing various tax audit reports, it was observed that in certain cases reporting under this clause was done when consideration received on transfer of an asset (capital or otherwise) being land, or building, or both and the value adopted u/s 43CA or 50C were same, which was not required.**

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2.4.5.2 It is suggested that the above-mentioned observation as well as the requirements of the 'Guidance Note on Tax Audit under Section 44AB of the Income tax Act, 1961' should be kept in mind while reporting under this clause.

### **2.4.6 CLAUSE 18:**

**PARTICULARS OF DEPRECIATION ALLOWABLE AS PER THE INCOME-TAX ACT, 1961 IN RESPECT OF EACH ASSET OR BLOCK OF ASSETS, AS THE CASE MAY BE, IN THE FOLLOWING FORM: —**

- (a) DESCRIPTION OF ASSET/BLOCK OF ASSETS**
- (b) RATE OF DEPRECIATION**
- (c) ACTUAL COST OR WRITTEN DOWN VALUE, AS THE CASE MAY BE.**
- <sup>1</sup>[(ca) ADJUSTMENT MADE TO THE WRITTEN DOWN VALUE UNDER SECTION 115BAC/115BAD (FOR ASSESSMENT YEAR 2021-2022 ONLY)**
- (cb) ADJUSTMENT MADE TO WRITTEN DOWN VALUE OF INTANGIBLE ASSET DUE TO EXCLUDING VALUE OF GOODWILL OF A BUSINESS OR PROFESSION**
- (cc) ADJUSTED WRITTEN DOWN VALUE**
- (d) ADDITIONS/DEDUCTIONS DURING THE YEAR WITH DATES; IN THE CASE OF ANY ADDITION OF AN ASSET, DATE PUT TO USE; INCLUDING ADJUSTMENTS ON ACCOUNT OF –**
  - (i) CENTRAL VALUE ADDED TAX CREDITS CLAIMED AND ALLOWED UNDER THE CENTRAL EXCISE RULES, 1944, IN RESPECT OF ASSETS ACQUIRED ON OR AFTER 1ST MARCH, 1994,**
  - (ii) CHANGE IN RATE OF EXCHANGE OF CURRENCY, AND**
  - (iii) SUBSIDY OR GRANT OR REIMBURSEMENT, BY WHATEVER NAME CALLED.**
- (e) DEPRECIATION ALLOWABLE**
- (f) WRITTEN DOWN VALUE AT THE END OF THE YEAR**

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<sup>1</sup> Substituted by the Income-tax (Eighth Amendment) Rules, 2021, w.e.f. 1-4-2021

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2.4.6.1 The requirement as per Guidance Note on Tax Audit under section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant extracts only):

*27.9 The additions/deductions during the year have to be reported, with dates. The tax auditor is advised to get the details of each asset or block of asset added during the year or disposed of during the year with the dates of acquisition/disposal. Where any addition was made, the date on which the asset was put to use is to be reported. In respect of deductions, the sale value of the assets disposed of along with dates should be mentioned. The provisions of Section 36(1)(iii) and Explanation 8 to section 43(1) of the Act, should be kept in mind for capitalization of interest to the cost of assets. The tax auditor should check the working regarding the calculation of depreciation allowable under the Act. To ascertain when the asset has been put to use, the tax auditor could call for basic records like production records/installation details/excise records/service tax records/records relating to power connection for operating the machine and any other relevant evidence. In the absence of any specific documentation with regard to the effective date from which the asset is put to use, he could get a representation letter from the management, in respect of the assets acquired. He should examine whether the apportionment of depreciation in cases like succession, amalgamation, demerger etc. has been properly made.*

*27.17 In other words the extent of addition or reduction will be limited to the exchange difference actually paid during the previous year. The tax auditor is required to verify that the adjustments in the cost of fixed assets on account of changes in the rate of exchange of currency in the schedule of fixed assets prepared for computation of depreciation as per Income-tax Rules are in accordance with the provisions of section 43A and information about such adjustment is provided under sub-clause (ii) of clause 18(d). The Tax Auditor may also prepare a reconciliation statement for his own records for any different treatment followed for the purpose of books of accounts as per applicable accounting treatment under Accounting Standards. The auditor should also refer the explanations to section 43A.*

**OBSERVATIONS:**

While reviewing various tax audit reports, it was observed that:

- a) In many cases, the details of additions/ deletions reported in Tax Audit Report were not in line with the figures of additions/ deletions disclosed in the Audited financial statements. The tax Auditor may prepare a reconciliation statement for his own records.
- b) A separate column has been provided for reporting, the '*amount of adjustment on account of Exchange Fluctuation (due to change in rate of exchange, if any)*' under the column '*Additions*'. In few cases, the said amount was not shown in the Tax audit report e-filing utility while the same was reported in the annexure attached and uploaded with the Tax audit report. The reported difference observed is not tenable.
- c) In some reports, in respect of '*additions*' to the block of assets, '*date of purchase*' and '*date of put to use*' were reported as same in respect of each item under each block of asset purchased, which is practically not possible in all the cases.
- d) Likewise, in respect of '*deductions*' from the block of assets, '*date of sale*' reported were same in respect of each item under each block of asset sold, which again is practically not possible in all the cases.
- e) In certain cases, single consolidated amount was disclosed at the end of each half part of the financial year as date of addition, instead of actual date of addition of each asset of the block.

2.4.6.2 It is suggested that the above-mentioned observations as well as the requirements of the '*Guidance Note on Tax Audit under Section 44AB of the Income tax Act,1961*' should be kept in mind while reporting under this clause.

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**2.4.7 CLAUSE 19:**

**AMOUNTS ADMISSIBLE UNDER SECTIONS:**

SECTION	AMOUNT DEBITED TO PROFIT AND LOSS ACCOUNT	AMOUNTS ADMISSIBLE AS PER THE PROVISIONS OF THE INCOME-TAX ACT, 1961 AND ALSO FULFILS THE CONDITIONS, IF ANY SPECIFIED UNDER THE RELEVANT PROVISIONS OF INCOME-TAX ACT, 1961 OR INCOME-TAX RULES, 1962 OR ANY OTHER GUIDELINES, CIRCULAR, ETC., ISSUED IN THIS BEHALF.
32AC		
32AD		
33AB		
33ABA		
35(1)(I)		
35(1) (II)		
35(1)(IIA)		
35(1)(III)		
35(1)(IV)		
35(2AA)		
35(2AB)		
35ABB		
35AC		
35AD		
35CCA		
35CCB		
35CCC		
35CCD		
35D		
35DD		
35DDA		
35E		

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2.4.7.1 The requirement as per Guidance Note on Tax Audit under section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant extracts only):

*28.2 In case the assessee has obtained a separate Audit Report for claiming deductions under any of these sections, he must make a reference to that report while giving the details under this clause.*

*28.3 The Tax Auditor should indicate the amount debited to the Profit & Loss Account and the amount actually admissible in accordance with the applicable provisions of law.*

*28.4 The amount not debited to the Profit & Loss Account but admissible under any of the Sections mentioned in the clause have to be stated. For example sections 33AB and 33ABA allow deduction in respect of amount deposited in designated account for specified purposes which, as per accounting principles, are not to be debited to the Profit & Loss Account. In this connection, the Tax Auditor has to work out, on the basis of the conditions prescribed in the concerned Section, the amount admissible there under and report the same.*

**OBSERVATION:**

**While reviewing various tax audit reports it was observed that in some cases where the assessee has obtained a separate Audit report, reference of that separate Audit report for claiming deductions was not made in Form No. 3CA as per the requirement of para 28.2 of the Guidance Note.**

2.4.7.2 It is suggested that the above-mentioned observation as well as the requirements of the 'Guidance Note on Tax Audit under Section 44AB of the Income tax Act,1961' should be kept in mind while reporting under this clause.



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**2.4.8 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)]**

**(b) DETAILS OF CONTRIBUTIONS RECEIVED FROM EMPLOYEES FOR VARIOUS FUNDS AS REFERRED TO IN SECTION 36(1)(VA):**

Serial number	Nature of fund	Sum received from employees	Due date for payment	The actual amount paid	The actual date of payment to the concerned authorities

2.4.8.1 The requirement as per Guidance Note on Tax Audit under Section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant extracts only):

*29.3 Section 36(i)(va) of the Act permits deduction of any sum received by the assessee from any of his employees to which the provisions of section 2(24)(x) are applicable, if it is credited by the assessee to the account of the employees in the relevant statutory fund on or before the due date.*

*29.4 Section 2(24)(x) includes within the scope of income any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund or ESI Fund or any other Fund for employees' welfare (hereafter referred to as "Welfare Fund").*

*29.5 As per the explanation provided in section 36(1)(va), "due date" means the date by which the assessee is required as an employer to credit an employee's contribution to the employee's account in the relevant fund under any Act., rule, order or notification issued there under or under any standing order, award, contract of service or otherwise, i.e., the date by which it is required to be credited as per the provisions of the applicable law etc. It may be noted that Employees' P.F. manual provides for 5 days of grace period for payment of contribution. This can be taken into consideration for determining the due date of payment.*

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29.6 *The tax auditor should get a list of various contributions recovered from the employees which come within the scope of this clause and the date on which it is deposited. He should also verify the documents relating to provident funds and other welfare funds. He should verify the agreement under which employees have to make contributions to provident fund and other welfare funds. The ledger account of contributions from employees should be reviewed; the due dates of payments and the actual dates of payment should be verified with the evidence available. In view of the voluminous nature of the information, the tax auditor can apply test checks and compliance tests to satisfy himself that the system of recovery and remittance is proper. Under this clause, details regarding the nature of fund, details of the amount deducted, due date for payment, actual amount paid and actual date of payment to the concerned authorities in respect of provident fund, ESI fund or other staff welfare fund have to be stated.*

### **OBSERVATIONS:**

**While reviewing various tax audit reports, it was observed that:**

- a) In certain cases, the details pertaining to provident fund have been reported under clause 20(b) but nothing was reported for ESI Fund, while regular contribution to the same was clearly reflecting in the Annual report of the company.**
- b) Also, “due date” reported for the relevant fund was not correct in some cases.**

2.4.8.2 It is suggested that the above-mentioned observations as well as the requirements of the ‘Guidance Note on Tax Audit under Section 44AB of the Income tax Act,1961’ should be kept in mind while reporting under this clause.

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**2.4.9 CLAUSE 21:**

**2.4.9.1 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.**

NATURE	SERIAL NUMBER	PARTICULARS	AMOUNT IN RS.
CAPITAL EXPENDITURE			
PERSONAL EXPENDITURE			
ADVERTISEMENT EXPENDITURE IN ANY SOUVENIR, BROCHURE, TRACT, PAMPHLET OR THE LIKE PUBLISHED BY A POLITICAL PARTY			
EXPENDITURE INCURRED AT CLUBS BEING ENTRANCE FEES AND SUBSCRIPTIONS			
EXPENDITURE INCURRED AT CLUBS BEING COST FOR CLUB SERVICES AND FACILITIES USED.			
EXPENDITURE BY WAY OF PENALTY OR FINE FOR VIOLATION OF ANY LAW FOR THE TIME BEING FORCE.			
EXPENDITURE BY WAY OF ANY OTHER PENALTY OR FINE NOT COVERED ABOVE			
EXPENDITURE INCURRED FOR ANY PURPOSE WHICH IS AN OFFENCE OR WHICH IS PROHIBITED BY LAW			

2.4.9.1.1 The requirement as per Guidance Note on Tax Audit under section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant extracts only):

*30.13 The amount of payments made to clubs by the assessee during the year being cost for club services and facilities used should be indicated under this clause. The payments may be for entrance fees*

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*as well as membership subscription and for catering and other services by the club, both in respect of directors and other employees in case of companies and for partners or proprietors in other cases. The fact whether such expenses are incurred in the course of business or whether they are of personal nature should be ascertained. If they are personal in nature, they are to be shown separately under Clause 21(a) referred to earlier. (Please refer the text of Guidance Note for the same)*

*30.16 This clause requires separate reporting of penalty or fine for violation of any law for the time being in force, and any other penalty or fine. The tax auditor should obtain in writing from the assessee the details of all payments by way of penalty or fine for violation of any laws have been made and paid or incurred during the relevant previous year and how such amounts have been dealt with in the books of accounts produced for audit.*

*30.27 Where the penalty or fine is in the nature of penalty or fine only, the entire amount thereof will have to be stated. As discussed above\*, with reference to certain penalty/penal interest courts have held that it is partially compensatory payment and partially in the nature of penalty. In such a case, on the basis of appropriate criteria, the amount charged will have to be bifurcated and only the amount relating to penalty may be stated. (\*Refer Guidance Note on tax audit under section 444AB of the Income-tax Act, 1961 for further details)*

### **OBSERVATIONS:**

**While reviewing various tax audit reports, it was observed that:**

- a) ***‘Expenditure incurred at clubs being entrance fees and subscriptions’*** was clubbed with ***‘expenditure incurred at clubs being cost for club services and facilities used’*** and reported together under this sub-clause. The two expenses are to be separately reported as per the requirement of the prescribed format of tax audit report as well as the Guidance Note on tax audit under section 44AB of the Income tax Act.
- b) ***‘Penalty or fine for violation of any law for the time being force’,*** and ***‘any other penalty or fine’*** were reported under one (1) sub-heading. However, the same were to be separately reported under different sub-headings as per the requirement of the

prescribed format of tax audit report as well as the Guidance Note on tax audit under section 44AB of the Income tax Act.

- c) Late filing fee of TDS return, paid during the year, was reported under this sub-clause, under the sub-heading 'as any other penalty or fine not covered above'. As per MCQ's on Late filing fees and penalty hosted at the link <https://www.incometaxindia.gov.in/Tutorials/25-%20MCQ%20Late%20filing%20fees%20and%20penalty.pdf> in respect of 'Late filing fees under section 234E' it has been stated: 'It should be noted that Rs. 200 per day is not penalty but it is a late filing fee'. Thus, the same is not required to be reported under this sub-clause.

2.4.9.1.2 It is suggested that the above-mentioned observations as well as the requirements of the 'Guidance Note on Tax Audit under Section 44AB of the Income tax Act, 1961' should be kept in mind while reporting under this clause.

**2.4.9.2 CLAUSE 21(b):**

**AMOUNTS INADMISSIBLE UNDER SECTION 40(A): -**

- (i) AS PAYMENT TO NON-RESIDENT REFERRED TO IN SUB-CLAUSE (i)
- (A) DETAILS OF PAYMENT ON WHICH TAX IS NOT DEDUCTED:
- (i) DATE OF PAYMENT
  - (ii) AMOUNT OF PAYMENT
  - (iii) NATURE OF PAYMENT
  - (iv) NAME AND ADDRESS OF THE PAYEE
- (B) DETAILS OF PAYMENT ON WHICH TAX HAS BEEN DEDUCTED BUT HAS NOT BEEN PAID DURING THE PREVIOUS YEAR OR IN THE SUBSEQUENT YEAR BEFORE THE EXPIRY OF TIME PRESCRIBED UNDER SECTION 200(1)
- (i) DATE OF PAYMENT
  - (ii) AMOUNT OF PAYMENT
  - (iii) NATURE OF PAYMENT
  - (iv) NAME AND ADDRESS OF THE PAYEE

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- (v) AMOUNT OF TAX DEDUCTED
- (ii) AS PAYMENT REFERRED TO IN SUB-CLAUSE (ia)
  - (A) DETAILS OF PAYMENT ON WHICH TAX IS NOT DEDUCTED:
    - (i) DATE OF PAYMENT
    - (ii) AMOUNT OF PAYMENT
    - (iii) NATURE OF PAYMENT
    - (iv) NAME AND ADDRESS OF THE PAYEE
  - (B) DETAILS OF PAYMENT ON WHICH TAX HAS BEEN DEDUCTED BUT HAS NOT BEEN PAID ON OR BEFORE THE DUE DATE SPECIFIED IN SUB-SECTION (1) OF SECTION 139.
    - (i) DATE OF PAYMENT
    - (ii) AMOUNT OF PAYMENT
    - (iii) NATURE OF PAYMENT
    - (iv) NAME AND ADDRESS OF THE PAYER\*
    - (v) AMOUNT OF TAX DEDUCTED
    - (vi) AMOUNT OUT OF (V) DEPOSITED, IF ANY
- (iii) UNDER SUB-CLAUSE (ic) [WHEREVER APPLICABLE]
- (iv) UNDER SUB-CLAUSE (ia)
- (v) UNDER SUB-CLAUSE (iib)
- (vi) UNDER SUB-CLAUSE (iii)
  - (a) DATE OF PAYMENT
  - (b) AMOUNT OF PAYMENT
  - (c) NAME AND ADDRESS OF THE PAYEE
- (vii) UNDER SUB-CLAUSE (iv)
- (viii) UNDER SUB-CLAUSE (v)

2.4.9.2.1 The requirement as per Guidance Note on Tax Audit under section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant extracts only):

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31.4 Under clause 21(b)(i)(A), the auditor is required to report payments to non-residents on which tax is required to be deducted but not deducted in respect of interest, royalty, fees for technical services and other such chargeable amount under the Income tax Act. The Auditor is advised to give details under this clause for each individual payee.

31.5 Similarly under clause 21(b)(i)(B), the auditor is required to report payments on which tax is deducted but is not deposited within the time prescribed during the previous year or in subsequent year. Such details are also required to be given for each individual payee prescribed under Section 40(a)(i).

31.6 Under this sub-clause the tax auditor is required to report the details of payment on which tax is not deducted at source and also the details of payment on which tax has been deducted but not paid during the previous year or in the subsequent year before the expiry of time prescribed under section 200(1)/139(1).

31.9 Under clause 21(b)(ii)(A), auditor is required to report payments to residents on which tax is required to be deducted but not deducted in respect of interest, royalty, fees for technical services and other such chargeable under Chapter XVII-B of the Income Tax Act. The auditor is advised to give details under this clause for each individual payee.

31.10 Similarly under clause 21(b)(ii)(B), auditor is required to report payments on which tax is deducted but is not deposited within the time prescribed during the previous year or in subsequent year. Such details are also required to be given for each individual payee prescribed under section 40(a)(ia).

31.11 Tax auditor should also verify that the particulars given under this clause do not differ from the particulars given under clause 34 of Form no. 3CD to the extent applicable. Under this sub-clause, the tax auditor is required to report the details of payment on which tax is not deducted at source and also the details of payment on which tax has been deducted but not paid on or before the due date specified in section 139(1).

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### OBSERVATIONS:

While reviewing various tax audit reports, it was observed that:

- a) In some cases, a consolidated sum in respect of 'provision for various expenses' of 'sundry parties' were reported. Instead of the date of crediting the amount of provision in the books of account, a random/ dummy date was reported in many cases.
- b) Reporting under this clause is required separately for each of the individual payee. Consolidated reporting for the heads under which tax has not been deducted has been done in certain cases.
- c) Reporting of inadmissible amount on account of non- deduction of taxes for 'resident' (30%) as well as 'non-resident payee' (100%) are to be reported appropriately under respective sub-clauses. This was however not done in few cases. Instead of reporting of details of 'resident payee', details of 'non-resident payee' were reported under clause 21(b)(ii)(A). Similarly, instead of reporting of details of 'non-resident payee', details of 'resident payee' were reported under clause 21(b)(i)(A).
- d) Complete address of the payee was not reported in few cases.

2.4.9.2.2 It is suggested that the above-mentioned observations as well as the requirements of the 'Guidance Note on Tax Audit under Section 44AB of the Income tax Act,1961' should be kept in mind while reporting under this clause.

### 2.4.9.3 CLAUSE 21(d):

#### DISALLOWANCE/DEEMED INCOME UNDER SECTION 40A(3):

(A) ON THE BASIS OF THE EXAMINATION OF BOOKS OF ACCOUNT AND OTHER RELEVANT DOCUMENTS/EVIDENCE, WHETHER THE EXPENDITURE COVERED UNDER SECTION 40A(3) READ WITH RULE 6DD WERE MADE BY ACCOUNT PAYEE CHEQUE DRAWN ON A BANK OR ACCOUNT PAYEE BANK DRAFT. IF NOT, PLEASE FURNISH THE DETAILS:

SERIAL NUMBER	DATE OF PAYMENT	NATURE OF PAYMENT	AMOUNT	NAME AND PERMANENT ACCOUNT NUMBER OR AADHAAR NUMBER OF THE PAYEE, IF AVAILABLE



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**(B) ON THE BASIS OF THE EXAMINATION OF BOOKS OF ACCOUNT AND OTHER RELEVANT DOCUMENTS/EVIDENCE, WHETHER THE PAYMENT REFERRED TO IN SECTION 40A(3A) READ WITH RULE 6DD WERE MADE BY ACCOUNT PAYEE CHEQUE DRAWN ON A BANK OR ACCOUNT PAYEE BANK DRAFT IF NOT, PLEASE FURNISH THE DETAILS OF AMOUNT DEEMED TO BE THE PROFITS AND GAINS OF BUSINESS OR PROFESSION UNDER SECTION 40A(3A);**

SERIAL NUMBER	DATE OF PAYMENT	NATURE OF PAYMENT	AMOUNT	NAME AND PERMANENT ACCOUNT NUMBER OR AADHAAR NUMBER OF THE PAYEE, IF AVAILABLE

2.4.9.3.1 The requirement as per Guidance Note on Tax Audit under section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant extracts only):

*33.2 For the purpose of furnishing the above particulars, the tax auditor should obtain a list of all cash payments in respect of expenditure exceeding Rs.20,000<sup>2</sup> (Rs.35000/- in case of plying, hiring or leasing goods carriages w.e.f. 1.10.2009) made by the assessee during the relevant year which should include the list of payments exempted in terms of Rule 6DD with reasons. This list should be verified by the tax auditor with the books of account in order to ascertain whether the conditions for specific exemption granted under clauses (a) to (l) of Rule 6DD are satisfied. Details of payments which do not satisfy the above conditions should be stated under this clause.*

*33.3 The tax auditor has to take into account the technological advancements in the field of banking and information technology where payments have been taken other than through an account payee cheque or bank draft. Rule 6DD of the Rule specifically exempts the cases where the payment is made by any letter of credit arrangements through a bank; a mail or telegraphic transfer through a bank; a book adjustment from any account in a bank to any other account in that or any other bank; a bill of exchange made payable*

<sup>2</sup> (w.e.f. AY 2018-19 Rs. 10,000/-)

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*only to a bank; the use of electronic clearing system through a bank account; a credit card; a debit card.*

*33.4 Practically, it may not be possible to verify each payment, reflected in the bank statement, as to whether the payment has been made through account payee cheque, demand draft, pay order or not, it is thus desirable that the tax auditor should obtain suitable certificate from the assessee to the effect that the payments for expenditure referred to in section 40A(3) and section 40A(3A) were made by account payee cheque drawn on a bank or account payee bank draft, as the case may be. Where the reporting has been done on the basis of the certificate of the assessee, the fact shall be reported as an observation in clause (3) of Form No. 3CA and clause (5) of Form No.3CB, as the case may be.*

### **OBSERVATIONS:**

**While reviewing various tax audit reports, it has been observed that:**

- a) Where the reporting has been done on the basis of certificate from the assessee, the fact was not reported as an observation in clause (3) of Form No. 3CA and clause (5) of Form No.3CB, as the case may be as required by the Guidance Note.**
- b) The observation/ qualification under this clause were provided in the notes attached to Form No. 3CA. However, the same should be reported under clause (3) of Form No. 3CA and/or clause (5) of Form No.3CB, as the case may be as required by the Guidance Note.**

2.4.9.3.2 It is suggested that the above-mentioned observations as well as the requirements of the 'Guidance Note on Tax Audit under Section 44AB of the Income tax Act,1961' should be kept in mind while reporting under this clause.

### **2.4.9.4 CLAUSE 21(g):**

#### **PARTICULARS OF ANY LIABILITY OF A CONTINGENT NATURE.**

2.4.9.4.1 The requirement as per Guidance Note on Tax Audit under section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant extracts only):

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36.1 *The assessee is required to furnish particulars of any liability of a contingent nature debited to the profit and loss account. The tax auditor may not be able to immediately ascertain the details of contingent liabilities debited to the profit and loss account without a detailed scrutiny of various account heads e.g. outstanding liabilities, provision etc. Accounting policy followed and disclosed would be helpful in ascertaining and verifying details. The expenses relating to disputed claims will be revealed only on the basis of the scrutiny of records relating to contingent liabilities. The tax auditor may look into particular items of contingent liabilities of the earlier year in order to determine whether or not any items has been charged to the profit and loss account of the current year and if so, whether the liability continues to be contingent in nature. Wherever necessary, a suitable note should be given by the tax auditor as to the non-availability of such particulars relating to the contingent liabilities.*

### **OBSERVATION:**

**While reviewing various tax audit reports it was found that reporting under this clause was done for the 'provision' created in the Books of accounts while in line with the requirement of the Guidance Note any liability of a 'contingent nature debited to the profit and loss account' is to be reported. Contingent liabilities which are mentioned in notes to accounts are not to be reported here as they are not debited to profit and loss account.**

2.4.9.4.2 It is suggested that the above-mentioned observation as well as the requirements of the '*Guidance Note on Tax Audit under Section 44AB of the Income tax Act,1961*' should be kept in mind while reporting under this clause.

### **2.4.10 CLAUSE 22**

**AMOUNT OF INTEREST INADMISSIBLE UNDER SECTION 23 OF THE MICRO, SMALL AND MEDIUM ENTERPRISES DEVELOPMENT ACT, 2006.**

2.4.10.1 The requirement as per Guidance Note on Tax Audit under section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant extracts only):

*39.2 The tax auditor is required to state the amount of interest inadmissible under section 23 of the Micro, Small and Medium*

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*Enterprises Development Act, 2006. The Micro, Small and Medium Enterprises Development Act, 2006 (MSME Act) is an Act to provide for facilitating the promotion and development and enhancing the competitiveness of micro, small and medium enterprises and for matters connected therewith or incidental thereto.*

*39.3 Section 23 of the MSME Act lays down that an interest payable or paid by the buyer, under or in accordance with the provisions of this Act, shall not for the purposes of the computation of income under the Income-tax Act, 1961 be allowed as a deduction.*

*39.7 Where the tax auditor is issuing his report in Form No.3CB, he should verify that the financial statements audited by him contain the information as prescribed under section 22 of the MSME Act. If no disclosure is made by the auditee in the financial statements he should give an appropriate qualification in Form No.3CB, in addition to the reporting requirement in clause 22 of Form No. 3CD.*

*39.9 Where the tax auditor, upon due verification, finds that the auditee has neither provided for nor paid any interest payable under the MSME Act, the no amount is inadmissible under section 23 of MSME Act. In such a case, appropriate reporting should be made against this clause in the format provided in the e-filing utility.*

*39.10 A question may come up, as to what would be disallowance, in case the auditee is liable to pay any interest under MSME Act, but he has not provided the interest in his accounts. In such a case, there can be no disallowance, as he has not claimed the same in his accounts. But whenever he pays and claim such interest, the same will be disallowable in year of payment. In case the auditee has adopted mercantile system of accounting, the non-provision may affect true and fair view and the auditor should give suitable qualification.*

**OBSERVATION:**

**While reviewing various tax audit reports it was observed that where the auditee has 'provided for' or 'paid' any interest payable under the MSME Act, as per audited financial statements, the same was not reported under this clause as an amount so inadmissible under section 23 of MSME Act.**

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2.4.10.2 It is suggested that the above-mentioned observation as well as the requirements of the 'Guidance Note on Tax Audit under Section 44AB of the Income tax Act, 1961' should be kept in mind while reporting under this clause.

### **2.4.11 CLAUSE 23:**

#### **PARTICULARS OF PAYMENTS MADE TO PERSONS SPECIFIED UNDER SECTION 40A(2)(b).**

2.4.11.1 The requirement as per Guidance Note on Tax Audit under section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant clauses only):

*40.2 The section enjoins on the Assessing Officer the power to fix the quantum of disallowance. Under this clause, the particulars of payments coming under this sub-section are to be stated. The following steps may be taken by the tax auditor in this connection:*

- (a) Obtain full list of specified persons as contemplated in this section.*
- (b) Obtain details of expenditure/payments made to the specified persons.*
- (c) Scrutinise all items of expenditure/payments to the above persons.*
- (d) It may be difficult to locate all such payments and it may also involve a time consuming effort. It is, however, possible to localise the area of enquiry by ascertaining the following:*
  - (i) Call for all contracts or agreements entered into by the assessee and list out the contracts or agreements entered into with the specified persons and segregate the items of payments made to them under these agreements.*
  - (ii) In case of payments for purchases and expenses on credit basis, the appropriate ledger accounts can be scrutinised to identify the dealings with the specified persons.*
  - (iii) In case of cash purchases and expenses, the purchase or expense account should be scrutinised. It may be difficult to identify such payments in each and every case where the volume of transactions is rather huge and voluminous.*

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*Therefore, it may be necessary to restrict the scrutiny only to such payments in excess of certain monetary limits depending upon the size of the concern and the volume of business of the assessee.*

- (iv) *In case of a large company, it may not be possible to verify the list of all persons covered by this section and, therefore, the information supplied by the assessee can be relied upon. In this context, a reference may be made to Circular No.143 dated 20.8.1974, issued by the Board, in which it is clarified that a tax auditor can rely upon the list of persons covered under Section 13(3) as given by the managing trustee of a Public Trust. (Refer Appendix 'B' of "A Guide to Audit of Public Trusts under the Income-tax Act" published by the Institute). Where the tax auditor relies upon the information in this regard furnished to him by the assessee it would be advisable to make an appropriate disclosure.*

### **OBSERVATIONS:**

**While reviewing various tax audit reports, it has been observed that:**

- a) In certain cases, 'Name' and 'PAN' of persons specified under section 40A(2)(b) were not reported.**
- b) In certain cases, the amount reported under this clause did not match with the amount as mentioned in the Annual Report.**
- c) In certain cases, consolidated figures were reported instead of respective transaction with respective persons as specified under section 40A(2)(b).**

2.4.11.2 It is suggested that the above-mentioned observations as well as the requirements of the 'Guidance Note on Tax Audit under Section 44AB of the Income tax Act, 1961' should be kept in mind while reporting under this clause.

### **2.4.12 CLAUSE 25:**

**ANY AMOUNT OF PROFIT CHARGEABLE TO TAX UNDER SECTION 41 AND COMPUTATION THEREOF.**

2.4.12.1 The requirement as per Guidance Note on Tax Audit under section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant extracts only):

*42.8 The tax auditor should obtain a list containing all the amounts chargeable under section 41 with the accompanying evidence,*

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*correspondence, etc. He should in all relevant cases examine the past records to satisfy himself about the correctness of the information provided by the assessee. The tax auditor has to state the profit chargeable to tax under this section. This information has to be given irrespective of the fact whether the relevant amount has been credited to the profit and loss account or not. The computation of the profit chargeable under this clause is also to be stated.*

### **OBSERVATION:**

**While reviewing various tax audit reports it was observed that the amount mentioned in Annual report, which was chargeable to tax under section 41 and reportable under this clause, was not reported in many cases. It is to be noted that as per the Guidance Note the same is required to be reported irrespective of the fact whether the relevant amount has been credited to the profit and loss account or not.**

2.4.12.2 It is suggested that the above-mentioned observation as well as the requirements of the 'Guidance Note on Tax Audit under section 44AB of the Income tax Act,1961' should be kept in mind while reporting under this clause.

### **2.4.13 CLAUSE 26:**

**IN RESPECT OF ANY SUM REFERRED TO IN CLAUSES (a), (b), (c), (d), (e), (f) OR (g) OF SECTION 43B, THE LIABILITY FOR WHICH:**

**(A) PRE-EXISTED ON THE FIRST DAY OF THE PREVIOUS YEAR BUT WAS NOT ALLOWED IN THE ASSESSMENT OF ANY PRECEDING PREVIOUS YEAR AND WAS**

**(a) PAID DURING THE PREVIOUS YEAR;**

**(b) NOT PAID DURING THE PREVIOUS YEAR;**

**(B) WAS INCURRED IN THE PREVIOUS YEAR AND WAS**

**(a) PAID ON OR BEFORE THE DUE DATE FOR FURNISHING THE RETURN OF INCOME OF THE PREVIOUS YEAR UNDER SECTION 139(1);**

**(b) NOT PAID ON OR BEFORE THE AFORESAID DATE.**

**(STATE WHETHER SALES TAX, CUSTOMS DUTY, EXCISE DUTY OR ANY OTHER INDIRECT TAX, LEVY, CESS, IMPOST, ETC., IS PASSED THROUGH THE PROFIT AND LOSS ACCOUNT.)**

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2.4.13.1 The prescribed format of e-filing utility of Tax audit report requires stating whether sales tax, customs duty, excise duty or any other indirect tax, levy, cess, impost, etc., is passed through the profit and loss account.

### **OBSERVATION:**

**While reviewing various tax audit reports it was observed that in certain cases when excise duty was passed through profit and loss account, instead of reporting the fact as 'YES', 'NO' was reported under this clause.**

2.4.13.2 It is suggested that the above-mentioned observation as well as the requirements of the 'format of e-filing utility of Tax audit report' should be kept in mind while reporting under this clause.

### **2.4.14 CLAUSE 27:**

- (a) AMOUNT OF CENTRAL VALUE ADDED TAX CREDITS AVAILED OF OR UTILISED DURING THE PREVIOUS YEAR AND ITS TREATMENT IN THE PROFIT AND LOSS ACCOUNT AND TREATMENT OF OUTSTANDING CENTRAL VALUE ADDED TAX CREDITS IN THE ACCOUNTS.**
- (b) PARTICULARS OF INCOME OR EXPENDITURE OF PRIOR PERIOD CREDITED OR DEBITED TO THE PROFIT AND LOSS ACCOUNT.**

2.4.14.1 The requirement as per Guidance Note on Tax Audit under section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant extracts only):

*44.2. The tax auditor should verify that there is a proper reconciliation between balance of CENVAT credit in the accounts and relevant excise and service tax records. The tax auditor should report the amount of CENVAT availed and utilised under this sub-clause. In a given case CENVAT availed may be lesser than the CENVAT credit utilised during the year on account of opening balance in CENVAT account or vice-versa and as such it would be advisable, in order to avoid any misleading conclusion and inferences, to report the opening and closing balances of CENVAT. Further the sub-clause requires reporting of the credits availed of or utilized during the previous year, it is desirable to report both the credits availed and the credits utilized.*



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44.3 In so far as the reporting of accounting treatment of CENVAT credit is concerned the clause requires that its treatment in profit and loss account and the treatment of outstanding CENVAT credit in the account have to be reported upon.

44.7 With regard to reporting of the amount of CENVAT credits availed or utilized during the previous year and its treatment in the profit and loss account wherever possible, it is advisable to give the details of the credit availed and utilized as separate line items.

44.8 With regard to reporting of the treatment of outstanding CENVAT Credits in the account, it is desirable to mention the opening and the closing outstanding balances in the CENVAT Credits accounts as separate line items. The account in which the outstanding amount is appearing should also be mentioned appropriately.

### **OBSERVATIONS:**

**While reviewing various tax audit reports it was observed that:**

- a) In few instances, the computation shown under this clause was incorrect.
- b) At few occasions, non-reporting of 'CENVAT utilized' and 'treatment of the same in profit and loss account' were noticed.
- c) In certain cases, even where treatment in profit and loss account was reported, reporting of treatment in the accounts for opening and closing balance of CENVAT was missing.

2.4.14.2 It is suggested that the above-mentioned observations as well as the requirements of the 'Guidance Note on Tax Audit under Section 44AB of the Income tax Act, 1961' should be kept in mind while reporting under this clause.

### **2.4.15 CLAUSE 31**

#### **2.4.15.1 CLAUSE 31(a)**

**PARTICULARS OF EACH LOAN OR DEPOSIT IN AN AMOUNT EXCEEDING THE LIMIT SPECIFIED IN SECTION 269SS TAKEN OR ACCEPTED DURING THE PREVIOUS YEAR:**

- I. NAME, ADDRESS AND PERMANENT ACCOUNT NUMBER OR AADHAAR NUMBER (IF AVAILABLE WITH THE ASSESSEE) OF THE LENDER OR DEPOSITOR;

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- II. AMOUNT OF LOAN OR DEPOSIT TAKEN OR ACCEPTED;
- III. WHETHER THE LOAN OR DEPOSIT WAS SQUARED UP DURING THE PREVIOUS YEAR;
- IV. MAXIMUM AMOUNT OUTSTANDING IN THE ACCOUNT AT ANY TIME DURING THE PREVIOUS YEAR;
- V. WHETHER THE LOAN OR DEPOSIT WAS TAKEN OR ACCEPTED BY CHEQUE OR BANK DRAFT OR USE OF ELECTRONIC CLEARING SYSTEM THROUGH A BANK ACCOUNT;
- VI. IN CASE THE LOAN OR DEPOSIT WAS TAKEN OR ACCEPTED BY CHEQUE OR BANK DRAFT, WHETHER THE SAME WAS TAKEN OR ACCEPTED BY AN ACCOUNT PAYEE CHEQUE OR AN ACCOUNT PAYEE BANK DRAFT.

2.4.15.1.1 The requirement as per Guidance Note on Tax Audit under section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant extracts only):

*49.3 Particulars of each loan or deposit falling within the scope of this section as mentioned above taken or accepted during the previous year have to be stated under this sub-clause. This sub-clause requires five specific particulars in respect of each loan or deposit including the permanent account number of the lender, if available.*

*49.4 The tax auditor should obtain the above details from the assessee in respect of each loan or deposit and verify the same from the records maintained by him.*

*49.6 There will be practical difficulties in verifying the loan or deposit taken or accepted by account payee cheque or an account payee bank draft. In such cases, the tax auditor should verify the transactions with reference to such evidence which may be available. In the absence of satisfactory evidence, the guidance given by the Council of the Institute of Chartered Accountants of India to the tax auditors has been to make a suitable comment in his report as suggested below.*

*“It is not possible for me/us to verify whether loans or deposits have been taken or accepted otherwise than by an account payee cheque or account payee bank draft, as the necessary evidence is not in the possession of the assessee”.*

**OBSERVATIONS:**

While reviewing various tax audit reports, it has been observed that:

- a) There were cases where the 'name' of the persons/concerns from whom loan had been taken, was not mentioned. Consolidated figures were reported mentioning 'various parties' under this clause instead of details of loan received person-wise.
- b) In Observations/Qualifications paragraph i.e., clause (3) of Form No.3CA or Clause (5) of Form No.3CB as the case may be, the language used in Para 49.6 of the Guidance Note has been used, as it is, without making the necessary change in respect to "me/us". Since the general language is provided in the Guidance Note, the report in Form No. 3CA/ 3CB should be reworded as applicable.

2.4.15.1.2 It is suggested that the above-mentioned observation as well as the requirements of the '*Guidance Note on Tax Audit under Section 44AB of the Income tax Act,1961*' should be kept in mind while reporting under this clause.

**2.4.15.2 CLAUSE 31(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: —**

- I. NAME, ADDRESS AND PERMANENT ACCOUNT NUMBER OR AADHAAR NUMBER (IF AVAILABLE WITH THE ASSESSEE) OF THE PAYEE;
- II. AMOUNT OF THE REPAYMENT;
- III. MAXIMUM AMOUNT OUTSTANDING IN THE ACCOUNT AT ANY TIME DURING THE PREVIOUS YEAR;
- IV. WHETHER THE REPAYMENT WAS MADE BY CHEQUE OR BANK DRAFT OR USE OF ELECTRONIC CLEARING SYSTEM THROUGH A BANK ACCOUNT;
- V. IN CASE THE REPAYMENT WAS MADE BY CHEQUE OR BANK DRAFT, WHETHER THE SAME WAS REPAID BY AN ACCOUNT PAYEE CHEQUE OR AN ACCOUNT PAYEE BANK DRAFT.

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2.4.15.2.1 The requirement as per Guidance Note on Tax Audit under Section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant extracts only):

*50.3 In the case of company assessee loan or deposit is defined to mean deposit repayable after notice or loan or deposit repayable after a period. Therefore, in case of a company loan or deposit repayable on demand will not be considered for the purpose of this section as loan or deposit.*

*50.4 However, in the case of non-company assessee loan or deposit is defined to mean loan or deposit of any nature. This distinction will have to be kept in mind while giving information under this sub-clause.*

*50.5 Loan or deposits discharged by means of transfer entries in the books of account constitute repayment of loan or deposits otherwise than by account payee cheques or account payee bank drafts. Hence, such entries have to be reported under this clause.*

*51.5 Practically, it may not possible to verify each payment, reflected in the bank statement, as to whether the payment/ acceptance of deposits or loans has been made through account payee cheque, demand draft, pay order or not, it is thus desirable that the tax auditor should obtain suitable certificate from the assessee to the effect that the payments/ receipts referred to in section 269SS and 269T were made by account payee cheque drawn on a bank or account payee bank draft as the case may be. Where the reporting has been done on the basis of the certificate of the assessee, the same shall be reported as an observation in clause (3) of Form No. 3CA and clause (5) of Form No.3CB, as the case may be.*

### **OBSERVATIONS:**

**While reviewing various tax audit reports, it has been observed that:**

- a) In certain cases, repayment of time deposits such as 'fixed deposits' and /or 'term loans' reflecting in Annual report were not reported while the same were required to be reported as per the Guidance Note.**
- b) In Observations/Qualifications paragraph i.e., clause (3) of Form No.3CA or Clause (5) of Form No.3CB as the case may be, the language used in Para 51.5 of the Guidance Note has been used,**

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as it is, without making the necessary changes in respect to “me/us”. Since the general language is provided in the Guidance Note, the report in Form No. 3CA/ 3CB should be reworded as applicable.

2.4.15.2.2 It is suggested that the above-mentioned observations as well as the requirements of the ‘Guidance Note on Tax Audit under Section 44AB of the Income tax Act, 1961’ should be kept in mind while reporting under this clause.

### 2.4.16 CLAUSE 32

<sup>3</sup>(a) DETAILS OF BROUGHT FORWARD LOSS OR DEPRECIATION ALLOWANCE, IN THE FOLLOWING MANNER, TO THE EXTENT AVAILABLE:

SL NO.	ASSESSMENT YEAR	NATURE OF LOSS/ ALLOWANCE (IN RUPEES)	AMOUNT AS RETURNED* (IN RUPEES)	ALL LOSSES/ ALLOWANCES NOT ALLOWED UNDER SECTION 115BAA/ 115BAC/ 115BAD	AMOUNT AS ADJUSTED BY WITHDRAWAL OF ADDITIONAL DEPRECIATION ON ACCOUNT OF OPTING FOR TAXATION UNDER SECTION 115BAC/115BAD <sup>^</sup>	AMOUNTS AS ASSESSED (GIVE REFERENCE TO RELEVANT ORDER)	REMARKS
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

\* IF THE ASSESSED DEPRECIATION IS LESS AND NO APPEAL PENDING THAN TAKE ASSESSED.

<sup>^</sup> TO BE FILLED IN FOR ASSESSMENT YEAR 2021-22 ONLY.

2.4.16.1 The requirement as per Guidance Note on Tax Audit under section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant extracts only):

*52.1 The amount of brought forward loss or depreciation allowance is required to be quantified as per return and assessment orders.*

\* As corrected by corrigendum GSR 841(E), dated 6-7-2017.

<sup>3</sup> Substituted by the Income-tax (Eighth Amendment) Rules, 2021, w.e.f. 1-4-2021

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52.2 A reporting format is prescribed for the sake of standardization.

52.3 At times while the particular claim for loss/allowance pertains to a particular assessment year as per the return of income, the same may relate to another assessment year as per the assessment order, e.g, Depreciation claim in respect of assets capitalized at the end of the financial year. In those cases, once the assessment order is received, the particulars have to be restated with reference to the assessment year to which they relate as per the assessment order. This should be accompanied by suitable explanation in the remarks column.

52.5 Any assessment, rectification, revision or appeal proceedings pending at the time of tax audit have to be disclosed in the remarks column by way of information. If consequential orders for any revision/appellate order is yet to be passed, the same can be disclosed along with the impact thereof, if material.

2.4.16.2 As per the reporting requirement of this clause and the prescribed format of e-filing utility of Tax audit report, under column (7) 'section under which order has been passed' and 'date of order' is required to be reported.

### **OBSERVATION:**

**While reviewing various tax audit reports it was observed that in certain reports the 'section under which assessment order was passed' and 'date of order' was not reported.**

2.4.16.3 It is suggested that the above-mentioned observation as well as the requirements of the '*Guidance Note on Tax Audit under Section 44AB of the Income tax Act,1961*' and the '*format of e-filing utility of Tax audit report*' should be kept in mind while reporting under this clause.

### **2.4.17 CLAUSE 34(c)**

**WHETHER THE ASSESSEE IS LIABLE TO PAY INTEREST UNDER SECTION 201(1A) OR SECTION 206C(7). IF YES, PLEASE FURNISH:**

TAX DEDUCTION AND COLLECTION ACCOUNT NUMBER (TAN)	AMOUNT OF INTEREST UNDER SECTION 201(1A)/206C(7) IS PAYABLE	AMOUNT PAID OUT OF COLUMN (2) ALONG WITH DATE OF PAYMENT.

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2.4.17.1 The requirement as per Guidance Note on Tax Audit under Section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant extracts only):

*60.2 Where the assessee is liable to pay interest u/s 201(1A) or 206C(7), the auditor should verify such amount from the books of account as on 31<sup>st</sup> March of the relevant previous year and also from PART G of the statement generated by the Department in Form No.26AS. In case the assessee had disputed the levy or calculation of interest under TRACES, in Form No.26AS, the auditor may re-calculate the amount of interest under section 201(1A) or section 206C(7) up to the date of audit report for reporting under this clause and also mention the fact in his observations paragraph provided in Form No.3CA or Form No.3CB, as the case may be.*

**OBSERVATION:**

**While reviewing various tax audit reports it was observed that 'date of payment' of interest with respective amount were not reported under the relevant columns of this sub-clause.**

2.4.17.2 It is suggested that the above-mentioned observation as well as the requirements of the 'format of e-filing utility of Tax audit report' should be kept in mind while reporting under this clause.

**2.4.18 CLAUSE 35:**

**2.4.18.1 CLAUSE 35(a)**

**IN THE CASE OF A TRADING CONCERN, GIVE QUANTITATIVE DETAILS OF PRINCIPAL ITEMS OF GOODS TRADED:**

- I. OPENING STOCK;**
- II. PURCHASES DURING THE PREVIOUS YEAR;**
- III. SALES DURING THE PREVIOUS YEAR;**
- IV. CLOSING STOCK;**
- V. SHORTAGE/EXCESS, IF ANY**

2.4.18.1.1 The requirement as per Guidance Note on Tax Audit under Section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant extracts only):

*61.1 The tax auditor should obtain certificates from the assessee in respect of the principal items of goods traded, the balance of the*

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*opening stock, purchases, sales and closing stock and the extent of shortage/ excess/damage and the reasons thereof.*

### **OBSERVATIONS:**

**While reviewing various tax audit reports, it was observed that:**

- a) **Quantitative details of principal items of goods traded were not reported under this clause whereas “Trading” was reported as one of the businesses of the assessee under clause 10a.**
- b) **In some cases, where closing stock of goods acquired for trading was reported as “NIL”, the quantitative details of opening, purchases & sales made during the year (traceable through financial statements) were not reported under this clause.**

2.4.18.1.2 It is suggested that the above-mentioned observations as well as the requirements of the ‘*Guidance Note on Tax Audit under Section 44AB of the Income tax Act, 1961*’ should be kept in mind while reporting under this clause.

### **2.4.18.2 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:**

#### **A. RAW MATERIALS:**

- I. **OPENING STOCK;**
- II. **PURCHASES DURING THE PREVIOUS YEAR;**
- III. **CONSUMPTION DURING THE PREVIOUS YEAR;**
- IV. **SALES DURING THE PREVIOUS YEAR;**
- V. **CLOSING STOCK;**
- VI. **YIELD OF FINISHED PRODUCTS;**
- VII. **PERCENTAGE OF YIELD;**
- VIII. **SHORTAGE/EXCESS, IF ANY.**



**B. FINISHED PRODUCTS/BY-PRODUCTS:**

- I. OPENING STOCK;**
- II. PURCHASES DURING THE PREVIOUS YEAR;**
- III. QUANTITY MANUFACTURED DURING THE PREVIOUS YEAR;**
- IV. SALES DURING THE PREVIOUS YEAR;**
- V. CLOSING STOCK;**
- VI. SHORTAGE/EXCESS, IF ANY.**

2.4.18.2.1 The requirement as per Guidance Note on Tax Audit under Section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant extracts only):

*62.2 In a large concern it may be difficult for tax auditor to verify each and every item of purchase, consumption and production. In such cases, he may verify the figures on a sampling method and satisfy himself as to the correctness of the figures furnished. This clause requires that quantitative details of "principal items" of raw materials and finished goods should be given. Therefore, information about petty items need not be given. What would constitute principal items will depend on the facts of each case. Normally, items which constitute more than 10% of the aggregate value of purchases, consumption or turnover may be classified as principal items.*

*62.3 The information about 'yield', 'percentage of yield', and 'shortages/ excess' is also required to be given.*

**OBSERVATIONS:**

**While reviewing various tax audit reports, it was observed that:**

- a) In some cases, where the assessee is engaged in "manufacturing", the 'percentage of yield' or 'shortage/excess' were not reported. Also, qualification/ observation with regard to the same was not given in the Tax Audit report.
- b) In some cases, details of 'Finished products' were erroneously reported as 'raw materials' under clause 35b(A) instead of clause 35b(B). Also, raw materials, which were clearly traceable from the financial statements, were not reported at all.

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2.4.18.2.2 It is suggested that the above-mentioned observations as well as the requirements of the 'Guidance Note on Tax Audit under Section 44AB of the Income tax Act, 1961' should be kept in mind while reporting under this clause.

### 2.4.19 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.**

2.4.19.1 The requirement as per Guidance Note on Tax Audit under section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant extracts only):

*64.1 The tax auditor should ascertain from the management whether cost audit was carried out and if yes, a copy of the same should be obtained from the assessee. Even though the tax auditor is not required to make any detailed study of such report, he has to take note of the details of disqualification or disagreement on any matter/item/value/quantity as may be reported / identified by the cost auditor. The tax auditor need not express any opinion in a case where such audit has been ordered but the same has not been carried out.*

### OBSERVATIONS:

**While reviewing various tax audit reports, it was observed that:**

**a) Representation from the management was relied upon to report as to whether or not there is a disqualification or disagreement on any matter. As per the Guidance Note, copy of the audit report should have been obtained from the management and note of the details of disqualification or disagreement on any matter/item/value/quantity, as the case may be, reported/identified under this clause should have been taken.**

**b) In certain cases, it was mentioned in Clause (3) of Form No.3CA or Clause (5) of Form No.3CB, as the case may be, that the cost audit report is attached herewith. While under this clause 'NO' was reported, both being contradictory statements.**

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2.4.19.2 It is suggested that the above-mentioned observations as well as the requirements of the 'Guidance Note on Tax Audit under Section 44AB of the Income tax Act, 1961' should be kept in mind while reporting under this clause.

### **2.4.20 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.**

2.4.20.1 The requirement as per Guidance Note on Tax Audit under section 44AB of the Income-tax Act, 1961 (2014 edition) is as under (relevant extracts only):

*65.1 The tax auditor should ascertain from the management whether any audit was conducted under the Central Excise Act, 1944 and if such audit was carried out, obtain a copy of the report. Even though the tax auditor is not required to make any detailed study of such report, he has to take note of the details if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/ identified by the auditor. The tax auditor need not express any opinion in a case where such audit has been ordered but the same has not been carried out.*

### **OBSERVATIONS:**

**While reviewing various tax audit reports, it was observed that:**

a) Representation from the management was relied upon to report as to whether or not there is a disqualification or disagreement on any matter. As per the Guidance Note, copy of the audit report should have been obtained from the management and note of the details of disqualification or disagreement on any matter/item/value/quantity, as the case may be, reported/identified under this clause should have been taken.

b) In certain cases, it was mentioned in Clause (3) of Form No.3CA or Clause (5) of Form No.3CB, as the case may be, that the excise audit report is attached herewith. While under this clause 'NO' was reported, both being contradictory statements.

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2.4.20.2 It is suggested that the above-mentioned observation as well as the requirements of the 'Guidance Note on Tax Audit under Section 44AB of the Income tax Act, 1961' should be kept in mind while reporting under this clause.

### 2.4.21 CLAUSE 40:

#### DETAILS REGARDING TURNOVER, GROSS PROFIT, ETC., FOR THE PREVIOUS YEAR AND PRECEDING PREVIOUS YEAR:

SERIAL NUMBER	PARTICULARS	PREVIOUS YEAR	PRECEDING PREVIOUS YEAR
1.	TOTAL TURNOVER OF THE ASSESSEE		
2.	GROSS PROFIT/TURNOVER		
3.	NET PROFIT/TURNOVER		
4.	STOCK-IN-TRADE/TURNOVER		
5.	MATERIAL CONSUMED/FINISHED GOODS PRODUCED		

#### (THE DETAILS REQUIRED TO BE FURNISHED FOR PRINCIPAL ITEMS OF GOODS TRADED OR MANUFACTURED OR SERVICES RENDERED)

2.4.21.1 The requirements as per the Guidance Note on Tax Audit under Section 44AB of the Income-tax Act, 1961 (2014 edition) and observations done thereon while reviewing tax audit reports are as under:

- a) As per Para 67.1 of the Guidance Note, *these ratios have to be calculated only for assessees who are engaged in manufacturing or trading activities. Moreover, the ratios have to be given for the business as a whole and need not be given product wise. Further, the ratio mentioned in (5) need not be given for trading concern or service provider.*

#### OBSERVATION:

**It was observed that in respect of service sector, "not applicable" should be reported under this clause instead of leaving the same blank.**

- b) As per Para 67.3 of the Guidance Note the term turnover is: *The aggregate amount for which sales are effected or services rendered by an enterprise. The terms gross turnover and net turnover (or gross sales and net sales) are sometimes used to distinguish the sales*

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*aggregate before and after deduction of returns and trade discounts. Attention is also invited to Para 5 (Sales, Turnover, Gross receipts) of this Guidance Note.*

As per Para 5.16 of the Guidance Note on Tax Audit *Sale proceeds of scrap, wastage etc. is to be included in the turnover unless treated as part of sale or turnover, whether or not credited to miscellaneous income account.*

**OBSERVATION:**

**In certain cases, scrap sale was not considered while arriving at the figure of 'turnover' for Tax Audit Report.**

- c) As per Para 67.3 of the Guidance Note, "*....The net profit to be shown here in this clause is net profit before tax.*

**OBSERVATION:**

**However, in certain cases net profit after tax was reported under this clause.**

- d) As per Para 67.4 of the Guidance Note, *For the purpose of calculating the ratio mentioned in (4), only closing stock is to be considered. The term 'stock-in-trade' used therein does not include stores and spare parts or loose tools. The term "stock-in-trade" would include only finished goods and would not include the stock of raw material and work-in-progress since the objective here is to compute the stock turnover ratio.*

*Further as per Para 67.6 of the Guidance Note, the value of finished goods produced may be arrived at by using the following formula:*

(a) Raw material consumption	-
(b) Stores and spare parts consumption	-
(c) Wages	-
(d) Other manufacturing expenses excluding depreciation.	-
Sub-total	-
Add : Opening stock in process	-
Deduct : Closing stocks in process	-
Value of finished goods produced	

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**OBSERVATION:**

**In certain cases, for calculating stock in trade/ Turnover ratio, average stock was taken instead of calculating stock as per the above-mentioned guidance given in the Guidance Note.**

- e) As per Para 67.5 of Guidance Note, *Material consumed would, apart from raw material consumed, include stores, spare parts and loose tools.*

**OBSERVATION:**

**In certain cases, the amount of material consumed reported under this clause did not include stores, spare parts and loose tools.**

- f) In case of manufacturing units, reporting under sub-clause (e) – ratio of material consumed/ finished goods produced is required.

**OBSERVATION:**

**The reporting of said ratios was missing in many reports.**

- g) The following Paras of the Guidance Note may be noted (relevant extracts only):

*67.8 There should be consistency between the numerator and the denominator while calculating the above ratios. Any significant deviation thereof should be pointed out.*

*67.9 The relevant previous year figures are to be taken from last previous year audit report. In case the preceding previous year is not subject to audit, nothing should be mentioned in the relevant column.*

**OBSERVATION:**

**While reviewing various tax audit reports it was observed that there were mismatch of figures in the material consumed reported in respect of preceding previous years. However, nothing was mentioned / reported under Clause (3) of Form No.3CA or Clause (5) of Form No.3CB, as the case may be.**

2.4.21.2 It is suggested that the above-mentioned observation reported should be taken care of and reporting should be done in line with the requirement of the 'Guidance Note on Tax Audit under Section 44AB of the Income tax Act, 1961'.

## **2.5 Conclusion**

Review of Tax Audit Reports is an ongoing process followed by TAQRB. Thus, the observations given in this publication will be updated from time to time.