

CLAUSE WISE DISCUSSION ON TAX AUDIT

Session II – Clauses 1 to 21

August 20, 2022

COMPLIANCE OR COMPILATION OR COMPLICATION

- Till AY 2013-14
 - Compliance of compilation
- W.e.f. AY 2014-15
 - Obviously a compliance
 - Data compilation is there but with perfection
 - Complication – only in terms of comparability of columns in Form 3CD and columns in ITR forms
 - Addition u/s 143(1) on the basis of Tax Audit Forms

COMPLIANCE OR COMPILATION OR COMPLICATION



- W.e.f. AY 2020-21
 - Data compilation is there but with professional competence
 - Pre-filled ITR from Tax Audit report filed
- W.e.f. AY 2022-23
 - No new clause notified till date
 - But 2 clauses made effective – GST & GAAR

CLAUSE 6 – PREVIOUS YEAR

- In case of new business
 - Previous year from starting from date of commencement of business
- How relevant
 - In case of interest u/s 234C, if any

CLAUSE 8

- Already audited under any other law
 - No audit but particulars in Form 3CD
 - Columns in Form 3CA and 3CB – clause 8
 - Form 3CA – why it contains reference of clauses of 44AB
 - Form 3CB – why it contains reference of proviso to section 44AB
- If turnover between 1cr to 10cr and cash involvement exceeds 5% - then “Proviso to Section 44AB(a)”
- Otherwise “Under Section 44AB(a)”

S.No.		Relevant clause of section 44AB under which the audit has been conducted
1	<input type="checkbox"/>	<div>Select</div>
<div><div> Add</div><div> Delete</div></div>		

Select

Clause 44AB(a)- Total sales/turnover/gross receipts of business exceeding specified limits

Clause 44AB(b)- Gross receipts of profession exceeding specified limits

Clause 44AB(c)-i- Profits and gains lower than deemed profit u/s 44AE

Clause 44AB(c)-ii- Profits and gains lower than deemed profit u/s 44BB

Clause 44AB(c)-iii- Profits and gains lower than deemed profit u/s 44BBB

Clause 44AB(d)- Profits and gains lower than deemed profit u/s 44ADA

Clause 44AB(e)- When provisions of section 44AD(4) are applicable

Third Proviso to sec 44AB : Audited under any other law

Clause 44AB(a)- Proviso where aggregate cash receipts and cash payments of business exceeding specified limits

CLAUSE 8(a)

- Assessee opted for taxation u/s 115BA/115BAA/115BAB/115BAC/115BAD
 - How can an Auditor make a comment on the same, if first year
 - Whether binding on Assessee
 - What will happen in case assessee later on changes the option
 - Advisory course of action....

CLAUSE 10

- Nature of business or profession
 - Includes “share of income from firm only”
- Is partner requires tax audit in case turnover/receipts exceeds Rs. 50L/1cr/10cr.?

DISALLOWANCES BY ACT & ICDS BOTH

- 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) ?
- Clause 13(e) - If answer to (d) above is in the affirmative, give details of such adjustments:
- Disallowance by a particular section as well as by ICDS
- How to report in 3CD and then in ITR
- If in 3CD, reported double or in ICDS column, but in ITR in respective section only, then problem may arise
- Does Act overrides ICDS and hence to be reported twice?

CLAUSE 14(b) r.w.s. 145A

- Impact of GST on closing stock
- Is it tax neutral?
- If not, then whether to report or not

CLAUSE 17 – SECTION 50C

- Specially in case of individuals
 - If immovable property is not part of business books, then to be reported or not?
- Reporting required only if transfer price less than Stamp Duty Value
 - What if variation within 10% - to be reported or not

CLAUSE 21 – SECTION 40A(3)

- Suggestive reporting
 - Though we have not noticed any payment in excess of Rs.10000/- or Rs. 35000/- (in case of plying, hiring or leasing goods carriages) have been made in contravention of section 40A(3) / 40A(3A) read with rule 6DD, however the assessee did not possess necessary evidence to verify the same.

CLAUSE 21 (SECTION 40(a)(i) & 40(a)(ia))

- In case of payment to NR – 100% expense is disallowed
- In case of payment to Resident – 30% expense is disallowed
 - Reporting of 100% of expense or 30% of expense
 - TAQRB – language suggests only 30% need to be reported

3CD vs ITR

- Corresponding columns in Schedule OI
- Must match otherwise 143(1) addition or selection u/s 143(2)
- For every column in 3CD, match corresponding column in ITR
- Example - CSR expenses (no column in 3CD but if disclosed in other column in 3CD and in ITR in CSR expenses, difference may arise)
- Gratuity provision generally reflected twice – 40A(7) and 43B but in ITR, at one place only

DOCUMENTS TO ATTACH?

- Balance Sheet and Profit & Loss Account
 - Scanned copy versus PDF converted from Excel/Word without signature
 - Single page or with schedules
 - Notes to accounts

TAQRB - OBSERVATIONS

- Address of assessee
 - As reported with RoC
 - Branch/Unit
 - Principal place of business
- Indirect Tax Registration Numbers
 - CARO vs 3CD
 - Reverse Charge Mechanism under GST – to be reported with clarification
 - If liable but not registered – need to be reported

TAQRB - OBSERVATIONS

- Books of accounts
 - Prescribed only for specified professions
 - For other – NO need to be selected
- ICDS
 - Disclosures are must whether there any impact or not
- Valuation of Inventory
 - Separate disclosure for each type of inventory - raw materials, work-in-progress, materials, maintenance supplies, consumables and loose tools

TAQRB - OBSERVATIONS

- Clause 18
 - Date of purchase/put to use/sale – reported same or 2 dates only
 - Not advisable
- Fees on late filing TDS statements
 - Not a penalty and hence not required to be reported in clause 21
 - Can be interpreted – allowed as business expense then
- Contingent Liability – clause 21
 - Only debited to P&L to be reported
 - Does not includes provisions

CLAUSE 20(b)

Clause 20

* Indicates mandatory fields

Nature of fund ⓘ

Select ▼

Sum received from employees *

₹

Due date for payment ⓘ

Choose a date



The actual amount paid *

₹

The actual date of payment to the concerned authorities ⓘ

Choose a date



CLAUSE 20(b)

- Retrospective amendment by FA 2021 w.e.f. AY 2021-22
- Allowed as expense only if deposited by due date of relevant Act
- Ques: To report both ER's contribution and EE's contribution, or to report EE's contribution only
- How to report in Form 3CD (in case of extension of date in relevant Act)?
- Obtain
 - Copy of challans
 - List of contributions made

CLAUSE 16 – AMOUNTS NOT CREDITED

- What if there is single P&L and BS for an individual including personal incomes?
- Clause 16(e) – capital receipts
 - To be reported only if not credited to P&L A/c but directly transferred to Reserves & Surplus

CLAUSE 9(b)

- In case of new partnership firm
 - Whether to report new partner details or not

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THANK YOU