

*Key Changes/Amendments relevant  
for filing ITR of AY 2023-24 and  
common issues in filing.*

*~ CA. Shashank A. Mehta*

# *Notification of ITRs*

## Notification No. 04 and 05 of 2023

- **ITR-1 to ITR 6** → Notification no. 04/2023 dated 10.02.2023.  
**ITR 7** → Notification no. 05/2023 dated 14.02.2023.
- Eligibility conditions for filing ITRs of AY 2023-24 → identical to those for AY 2022-23. [Rule 12]
- ITR 1 (SUGAM) :

For Individuals **(R&OR)** having Income from Salaries, **one house property**, other sources (Interest etc.) having total income upto Rs.50 lakh and having agricultural income upto Rs. 5,000/-.

### **Not for:**

- Director in a company; or
- has invested in unlisted equity shares; or
- in cases where TDS has been deducted u/s 194N; or
- if income-tax is deferred on ESOP
- ITR being filed by virtue of clause (i) of seventh proviso to 139(1)

## Notification No. 04 and 05 of 2023

- ITR 2: For Individuals and HUFs not carrying out business or profession under any proprietorship
- ITR 3: For individuals and HUFs having income from a proprietary business or profession
- ITR 4: For Individuals, HUFs and Firms (other than LLP) being a resident **having total income upto Rs.50 lakh** and having income from business and profession which is computed under sections 44AD, 44ADA or 44AE.

### **Not for:**

- Director in a company; or
- has invested in unlisted equity shares; or
- if income-tax is deferred on ESOP

## Notification No. 04 and 05 of 2023

- ITR 5: For persons other than,- (i) individual, (ii) HUF, (iii) company and (iv) person filing Form ITR-7
- ITR 6: For Companies other than companies claiming exemption under section 11
- ITR 7: For persons including companies required to furnish return under sections 139(4A) or 139(4B) or 139(4C) or 139(4D) or 139(4E) or 139(4F)

## Seventh proviso to section 139(1)

Finance (No. 2) Act, 2019 w.e.f. 01.04.2020:

Applies to all person except for Company and Firm.

ITR filing mandatory, if:

- **Assessee deposited** an amount or aggregate of the amounts **exceeding Rs. 1,00,00,000/-** in one or more **current accounts** maintained with a banking company or a co-operative bank; or
- Assessee incurred expenditure of an amount or aggregate of the amounts exceeding **Rs. 2,00,000/-** for himself or any other person for travel to a **foreign country**; or
- has incurred expenditure of an amount or aggregate of the amounts exceeding **Rs. 1,00,000/-** towards consumption of electricity; or
- **\*\*fulfils such other conditions as may be prescribed\*\***

**\*\*Notification No. 37 of 2022 dated 21.04.2022\*\***

- (i) if his **total sales, turnover or gross receipts**, as the case may be, **in the business exceeds Rs. 60,00,000/-** during the previous year; or
- (ii) if his **total gross receipts in profession exceeds Rs. 10,00,000/-** during the previous year; or
- (iii) if the **aggregate of tax deducted at source and tax collected at source** during the previous year, in the case of the person, **is Rs. 25,000/- or more**; or  
(in case of resident individual → 60years → 'Rs. 50,000/-')
- (iv) the **deposit** in one or more savings bank account of the person, in aggregate, **is Rs. 50,00,000/- or more during the previous year**

*Changes in ITRs*  
&  
*Relevant instructions*



## Non-applicability of ITR-1

Clause (i) of the seventh proviso to section 139(1):

*“(i) has deposited an amount or aggregate of the amounts exceeding one crore rupees in one or more current accounts maintained with a banking company or a co-operative bank;”*

For AY 2022-23: Assessee of above category was allowed to file ITR-1, ITR-2, ITR-3 or ITR-4.

**For AY 2023-24: Such Assessee cannot opt to file ITR-1.**

## No option to select 'SOP'

Type of house property under 'Schedule HP'

→ Let out

→ Deemed Let out

→ ~~Self Occupied~~

[ITR-5 , ITR-6 and ITR-7]

Section 23(2)(a): '*occupation of the owner for the purposes of his own residence*'.

Premises used as office → Outside the ambit of section 22

## No concessional rate of tax for Dividend from foreign Co.

*Section 115BBD* → Concession tax rate of 15% on dividend received by domestic company from an associated foreign company.

After abolition of DDT → dividend received by domestic company from another domestic company is chargeable at regular rate of tax (i.e. 25%).

In order to bring parity → Finance Act, 2022 withdraw the benefit of concessional rate of tax on dividend received by domestic company from specified foreign company.

Changes in ITR-6:

Under 'Schedule OS' reference to ~~'Tax on dividend received by an Indian company from specified foreign company-115BBD'~~

## Additional disclosure for FPI/FII

Additional information about SEBI registration number to be provided by Foreign Institutional Investors or Foreign Portfolio Investors:



Whether you are an FII/FPI?

Yes  No

SEBI Registration Number

ABCD12345678

Schedule 112A will be disabled if answer to 'Are you an FII/FPI' is 'Yes' and schedule 115AD will be enabled.

[ITR-2, ITR-3 and ITR-5]

## Providing ARN for specified donation

Donation Reference Number to be provided if the donation is eligible for **50% deduction subject to qualifying limit**

Donation Type*	
Donations entitled for 50% deduction subject to qualifying limit	
PAN of Donee *	Name of Donee *
ABCTS1234A ⓘ	SMILE PLEASE
Address *	City / Town / District *
Andheri	Mumbai
State Code *	PIN Code *
Maharashtra	400059
ARN (Donation Reference Number)	
ABCD123456789	
Donation in Cash	₹ 501
Donation in Other Mode	₹ 50,001
Total Donations	₹ 50,502
Eligible Amount of Donation	₹ 1,270

[ITR-2, ITR-3 , ITR-5 and ITR - 6]

## Change in constitution [ITR-5]

PARTNERSHIP INFORMATION	A Whether there was any change during the previous year in the partners/members of the firm/AOP/BOI (Tick) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (In case of societies and cooperative banks give details of Managing Committee) If Yes, provide the details in respect of admitted / retired partners.						
	Sl.	Name of Partner/member	the Admitted/Retired	PAN	Date of admission/retirement	Remuneration paid / payable in case of retiring partner (in the case of a firm)	Percentage of share (if determinate)
	1.						
	2.						

Additional disclosure:

→ PAN

→ Remuneration paid/payable in case of retiring partner (in the case of a firm)

## Disclosure about advances in ITR-3

Additional disclosure :

- a) Advances from person specified in section 40A(2)(b)
- b) From others

4. Advances	
i. From persons specified in section 40A(2)(b) of the I. T. Act	₹ 1,10,000
ii. From others	₹ 8,00,000
iii. Total Advances (i + ii)	₹ 9,10,000
5. Sources of Funds (1c + 2c + 3 + 4iii)	
	₹ 9,10,000
<a href="#">&lt; Back</a>	<a href="#">Add</a>

# Sunset clause in Schedule 80-IB

- Assessee deriving profit from the eligible industrial undertaking can claim deduction u/s. 80-IB.
- An industrial undertaking in Jammu & Kashmir had time until 31.03.2012 to commence operations. As the 10 years for claiming deductions under Section 80-IB for such undertaking expired on 31.03.2022, these undertakings are no longer eligible for such deductions in the 2022-23 financial year.
- Schedule 80-IB have been amended to remove the rows allowing deduction under the above obsolete provisions

[ITR 3, 5 & 6]



# Facility to transfer TCS credit

D Details of Tax Collected at Source (TCS) [As per Form No. 27D issued by the Collector(s)]											
TDS ON OTHER INCOME	Sl. No.	TCS credit relating to self /other person [spouse as per section 5A/ other person as per rule 37BA(2)]	Tax Deduction and Tax Collection Account Number of the Collector	PAN of other Person (if TCS credit related to other person)	Unclaimed TCS brought forward (b/f)		TCS of the current fin. Year		TCS credit being claimed this Year		TCS credit being carried forward
					Fin. Year in which collected	Amount b/f	Collected in own hands	Collected in the hands of spouse as per section 5A or any other person as per rule 37-I(1) (if applicable)	Claimed in own hands	Claimed in the hands of spouse as per section 5A or any other person as per rule 37-I(1) (if applicable)	
										TCS PAN	
<b>NOTE ►</b> Please enter total of column 7(i) in 15c of Part B- III											

[ITR 2, 3, 5, 6 and 7]

# *Relief under section 89A*

# Taxability under section 89A

- When a non-resident becomes a resident in India, the income in his **foreign retirement benefits account** is chargeable to tax in India on an accrual basis.
- However, some countries tax such an amount at the time of receipt.
- Due to a mismatch in the year of taxability of such income in retirement funds, the taxpayers (generally non-residents who have permanently returned to India) face difficulties in availing of the foreign tax credit in respect of tax paid outside India on such income.
- Section 89A, inserted with effect from the AY 2022-23, removed the aforesaid difficulty by providing that the income of a specified person from the specified account shall be taxed in such manner and for such year as may be prescribed by Rule 21AAA

# Taxability under section 89A

- Disclosure of income

1. Gross income chargeable to tax at normal applicable rates Edit Delete

e. Any other income (please specify nature) ₹ 1,05,000  
[Hide Details](#)

- i Family Pension ₹ 0
- ii Income from retirement benefit account maintained in a notified country u/s 89A ₹ 60,000

Country/Region	Amount
Canada	₹ 40,000
United States of America	₹ 20,000


- iii Income from retirement benefit account maintained in a country 'other than notified country u/s 89A' ₹ 15,000
- iv Income taxable during the previous year on which relief u/s 89A was claimed in any earlier previous year. ₹ 30,000

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Gross income chargeable to tax at normal applicable rates ₹ 1,05,000

# Taxability under section 89A

- Disclosure of relief

4. Amounts not deductible u/s 58	<input type="text"/>
5. Profits chargeable to tax u/s 59	<input type="text"/>
5a. Income claimed for relief from taxation u/s 89A	<input type="text" value="20,000"/>
 Warning : Please ensure to submit Form 10EE.	
6. Net income from other sources chargeable at normal applicable rates ⓘ (1 (after reducing income related to DTAA portion) - 3 + 4 + 5 - 5a)	₹ 85,000

- Ensure filing Form 10EE before due date of filing ITR

# *Taxability of VDA*

# Taxability of VDA

- Section 2(47A) – Defines VDA:
    - (a) any information or code or number or token (not being Indian currency or foreign currency), generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme; and can be transferred, stored or traded electronically;
    - (b) a non-fungible token or any other token of similar nature, by whatever name called;
    - (c) any other digital asset, as the Central Government may, by notification in the Official Gazette specify:
- Provided** that the Central Government may, by notification in the Official Gazette, exclude any digital asset from the definition of virtual digital asset subject to such conditions as may be specified therein.

# Taxability of VDA

Notification No. 74/2022, dated June 30,2022:

VDA would not include the following:

- (i) Gift card or vouchers;
- (ii) Mileage points, reward points or loyalty cards;
- (iii) Subscription to websites or platforms or application.

Notification No. 75/2022, dated June 30,2022 -Non-Fungible Tokens ('**NFT**') -would not include:

A NFT whose transfer results in transfer of ownership of underlying tangible asset and the transfer of ownership of such underlying tangible asset is otherwise legally enforceable.



# Taxability of VDA

## **Section 115BBH:**

- Rate of tax : flat 30%
- Deduction of only Cost of Acquisition will be allowed
- Expenditure/ allowance/ loss of other heads → cannot be set-off against this income.

Therefore, the cost of mining and any other costs are not considered costs which reduce profits.

**(even unexhausted basic exemption cannot be set-off)**

- Loss in Crypto → neither can be set-off against any income nor can be carried forward to subsequent AYs.
- **The above provisions is irrespective of the classification of such income i.e. PGBP/CG**

‘Virtual Digital Asset’ is also to be considered as ‘property’ for the purpose of section 56(2)(x) → accordingly even transferring it for no/inadequate consideration will be subject to applicable provisions.

# Taxability of VDA

**Add Income from transfer of Virtual Digital Assets** \* Indicates mandatory fields

Date of Acquisition	Date of Transfer
18-Nov-2022	14-Mar-2023
Head under which income to be taxed (Business/Capital Gain)	Cost of Acquisition
Capital Gain	₹ 15,00,000
Consideration Received	Income from transfer of Virtual Digital Assets <small>(enter nil in case of loss)</small>
₹ 25,00,000	₹ 10,00,000

Activate Windows  
Go to PC settings to activate Win

Every transaction is independent...!!!

# Taxability of VDA

Date of Acquisition (2)	Date of Transfer (3)	Head under which income to be taxed (Business/Capital Gain) (4)	Cost of Acquisition (In case of gift; a. Enter the amount on which tax is paid u/s 56(2)(x) if any b. In any other case cost to previous owner) (5)	Consideration Received (6)	Income from transfer of Virtual Digital Assets (enter nil in case of loss) (Col. 6 - Col. 5) (7)
18-Nov-2022	14-Mar-2023	Capital Gain	₹ 15,00,000	₹ 25,00,000	₹ 10,00,000
28-Mar-2023	31-Mar-2023	Business Income	₹ 5,00,000	₹ 3,00,000	₹ 0
Sum of all Positive Incomes of Business Income in Col. 7)					₹ 0
Sum of all Positive Incomes of Capital Gain in Col. 7)					₹ 10,00,000

Do you want to add more details

[+ Add Another](#)

Activate Windows  
Go to PC settings to activate

[ITR 2,3,5,6 and 7]

*Disclosure for  
Intra-day trading*

# Indraday transactions

Section 43(5):

*“(5) "speculative transaction" means a transaction in which a contract for the purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips:*

*Provided that for the purposes of this clause –*

*(a)*

*...*

*(d) an eligible transaction in respect of trading in derivatives referred to in clause (ac) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) carried out in a recognised stock exchange; or...*

***shall not be deemed to be a speculative transaction.”***

# Intraday transactions

ICAI Guidance note on Tax Audit – Para 5.14:

*A speculative transaction means a transaction in which a contract for the purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips.*

*Thus, in a speculative transaction, the contract for sale or purchase which is entered into is not completed by giving or receiving delivery so as to result in the sale as per value of contract note.*

*The contract is settled otherwise and squared up by paying out the difference which may be positive or negative. **As such, in such transaction the difference amount is 'turnover'.***

*In the case of an assessee undertaking speculative transactions there can be both positive and negative differences arising by settlement of various such contracts during the year.*

*Each transaction resulting into whether a positive or negative difference is an independent transaction.*

*Further, amount paid on account of negative difference paid is not related to the amount received on account of positive difference.*

***In such transactions though the contract notes are issued for full value of the purchased or sold asset the entries in the books of account are made only for the differences. Accordingly, the aggregate of both positive and negative differences is to be considered as the turnover of such transactions for determining the liability to audit vide section 44AB.***

# Intraday transactions - Disclosure

Only additional disclosure – mere bifurcation – it would not further add to income

11	Cost of goods produced – Transferred from Manufacturing Account	11	0
12	Gross Profit from Business/Profession - transferred to Profit and Loss account (6-7-8-9-10xii-11)	12	20,00,000
12a	Turnover from Intraday Trading	12a	5,00,000
12b	Income from Intraday Trading - transferred to Profit and Loss account	12b	3,00,000

[ITR 3 and 5]

It is possible : Actual T/o figure < derived T/o figure

*Section 115BAC*  
*[ITR 3 & 4]*



# Opt In/Out

- Section 115BAC → alternate taxation scheme applicable for individuals/HUFs
- Person carrying on Business/profession:

Option once exercised is allowed to be withdrawn only once that too for a previous year other than the year in which it was exercised.

Once such option has been withdrawn, assessee shall never be eligible to exercise option under this section, except where such person ceases to have any income from business or profession.

# Disclosure – 115BAC Opt Out

Have you ever opted for new tax regime u/s 115BAC in earlier years ? ⓘ

Yes  No

Assessment Year in which said option was exercised  Date of filing of Form 10IE (DD/MM/YYYY)

Acknowledgment number

Have you ever opted out of section 115BAC in earlier years?

Yes  No

Assessment Year in which said option was opted out  Date of filing of Form 10IE (DD/MM/YYYY)

Acknowledgment number

Option for current assessment year (select opting in now if you are opting in first time)

Opting in now  Not opting  Continue to opt  Opt out  Not eligible to opt in

Acti

[ITR 3 and 4]

# Instructions:

NOTE :

1. *Option for new tax regime u/s 115BAC will be available only till due date of filing of return u/s 139(1)*
2. *Taxpayer can opt in or withdraw from new tax regime u/s 115BAC in revised return if it is filed within due date as per section 139(1)*

*What about - PCIT vs. Wipro Ltd. [2022] 446 ITR 1(SC)?*

*Revised return of income, under section 139(5) cannot be filed, to withdraw claim and subsequently claiming carried forward or set-off of any loss*

*ITR-7*

# Violation of specified conditions

The new ITR-7 form seeks the details of whether the provisions of the *twenty-second proviso* to Section 10(23C) or Section 13(10) is applicable.

The Finance Act 2022 inserted special provisions for the computation of income in the following cases:

- (a) the institution has not obtained the audit report;
- (b) the books of account and other documents have not been kept in the prescribed form/ manner/ place; or
- (c) the institution has not furnished the return of income within the time allowed under Section 139(4A).

# Expenditure to be disallowed

- Expenditure from the corpus standing to the credit of the trust or institution as on the end of the financial year.
- Expenditure from any loan or borrowing.
- Depreciation in respect of an asset, acquisition of which has been claimed as application of income, in the same or any other previous year.
- Expenditure in the form of contribution or donation to any person.
- Capital expenditure
- Disallowance shall be made under Section 40(a)(ia) for the default made in deduction of tax.
- Disallowance shall be made Section 40A(3)/40A(3A) for the payment made in cash.
- No deduction shall be allowed for the expenditure not incurred in India

The disallowance made of the above expenditure or allowance shall not be allowed as a deduction to the assessee under any other provision. Further, if any loss arises due to such expenditure, no set-off shall be allowed for such losses.

# Part B3 of Schedule TI

II. If yes in Sl. No. A(26) of Part A-General, please provide computation of Income chargeable under twenty second proviso to Clause (23C) of section 10/Sub-section (10) of section 13			
1	Total Income for the previous year other than Sl. No. 7	Amount in Rs.	
2	Total Expenditure incurred in India, for the objects of the assessee,	Amount in Rs.	
3	<b>Expenditure to be disallowed</b>		
	(i)	Expenditure from the corpus standing to the credit of the trust or institution as on the end of the financial year immediately preceding the previous year relevant to the assessment year for which income is being computed	Amount in Rs.
	(ii)	Expenditure from any loan or borrowing	Amount in Rs.
	(iii)	Depreciation in respect of an asset, acquisition of which has been claimed as application of income, in the same or any other previous year; and	Amount in Rs.
	(iv)	Expenditure in the form of contribution or donation to any person.	Amount in Rs.
	(v)	Capital expenditure	Amount in Rs.
	(vi)	Amount disallowable under Explanation to sub-section (10) of section 13 or Explanation to twenty second proviso to clause (23C) of section 10 read with sub-clause (ia) of clause (a) of section 40	Amount in Rs.
	(vii)	Amount disallowable under Explanation to sub-section (10) of section 13 or Explanation to twenty second proviso to clause (23C) of section 10 read with sub-section 3 of section 40A	Amount in Rs.
	(viii)	Amount disallowable under Explanation to sub-section (10) of section 13 or Explanation to twenty second proviso to clause (23C) of section 10 read with section 3A of section 40A	Amount in Rs.
	(ix)	Any other disallowance	Amount in Rs.
(x)	Total expenditure to be disallowed (i)+(ii)+(iii)+(iv)+(v)+(vi)+(vii)+(viii)+(ix)	Amount in Rs.	
4	<b>Additions</b>		
(i)	Income chargeable under section 115BBI <Total of Sl. No 7 of Schedule 115BBI>	Amount in Rs.	
(ii)	Income in respect of which exemption under section 11 is not available, being anonymous donation (Diii of schedule VC)	Amount in Rs.	
(iii)	Income chargeable under section 12(2)	Amount in Rs.	
(iv)	Income as per Explanation 3B in case of violation of clause (a) or (b) or (c) or (d) of Explanation 3A to section 11(1) read with section 80G(2)(b)	Amount in Rs.	
(v)	Income as per Explanation 1B in case of violation of clause (a) or (b) or (c) or (d) of Explanation 1A to section 10(23C) read with section 80G(2)(b)	Amount in Rs.	
(vi)	Total Additions (i)+(ii)+(iii)+(iv)+(v)	Amount in Rs.	
5	Income chargeable u/s 11(4)	Amount in Rs.	
6	Sum total [(1-2+3x)+4vi+5]	Amount in Rs.	

## Details of Author/ Founder/ Trustee/ Manager

ii Particulars regarding the Author(s) / Founder(s) / Trustee(s) / Manager(s), etc., of the Trust or Institution <i>[to be mandatorily filled in by all persons filing ITR-7]</i>									
A Details of all the Author (s)/ Founder (s)/ Settlor (s)/Trustee (s)/ Members of society/Members of the Governing Council/Director (s)/ shareholders holding 5% or more of shareholding / Office Bearer (s) at any time during the previous year									
Sl.	Name	Relation	Percentage Of shareholding in case of shareholder	Whether Resident of India?	Unique Identification Number	ID Code	Address	Mobile number	E-mail address

**Upto AY 2022-23:** Details of Author/ Founder/ Trustee/ Manager as on the date of applications.

**For AY 2023-24:** Details of Author/ Founder/ Trustee/ Manager at any time during the previous year.



# Disclosure in Schedule IA

- The exemption is allowed to a trust for the income accumulated in excess of 15%, subject to the fulfilment of certain conditions.
- Section 11(3) provides for the circumstances when the exemption allowed to a trust for the accumulated income shall be withdrawn if specified conditions are not complied with by the assessee.
- In this new Schedule IA, the details need to be provided for the year of accumulation and the assessment year in which such accumulated amount was taxed.
- Details of the accumulated income taxed in earlier assessment years under Section 11(3) to be furnished.

<b>Schedule IA</b>		<b>Details of accumulated income taxed in earlier assessment years as per section 11(3)</b>					
<u>AY</u>		<u>Assessment year in which the amount referred at Col 6 of Schedule I was taxed (Figures in Rs.)</u>					
<b>FY</b>		2018-19	2019-20	2020-21	2021-22	2022-23	Total
Year of accumulation (F.Yr.)		(A)	(B)	(C)	(D)	(E)	(F) (A+B+C+D+E)
2016-17							
2017-18							
2018-19							
2019-20							
2020-21							

# Additional disclosure in BS

- The breakup of the total application of funds shown in the balance sheet shall be further classified into:
  - a) the investments made in the modes specified under Section 11(5); and
  - b) the investment made in modes other than specified under Section 11(5).

	e	Net Current Assets (3c - 3dm)	3e
	4	Accumulated balance/ Any other reserve (deficit)	4
	5	Total, application of funds (1+2+3e+4)	5
	6	Out of 5, Investment made in modes specified u/s 11(5)	6
	7	Out of 5, Investment made in modes other than specified u/s 11(5)	7

# Schedule R

- A new Schedule R has been inserted wherein the reconciliation of the corpus of Schedule J and the Balance sheet is to be shown. The reasons for the difference in the closing balance of the corpus shown in Schedule J and the closing balance as per the balance sheet are to be given.

The reasons for the difference have to be given as under:

- (a) Purchase of fixed Assets
- (b) Depreciation
- (c) Any other reasons (Specify the reason)

# *Relevant Amendments*

# Section 80CCH

**Eligibility:** Individual who have enrolled for Agnipath Scheme and subscribing to the Agniveer Corpus fund on or after 01.11.2022.

Contributories: Eligible Individual + Central Government

Contribution of CG → Salary under section 17(1)(ix)

Amount of deduction under section 80CCH:

Individual opted for scheme of section 115BAC: Contribution made by Central Government

Individual opted for regular scheme: **Own contribution** + Central Government Contribution

[Finance Act, 2023 – w.e.f. AY 2022-23]

## Section 68 – source of source

- The nature and source of any sum, whether in form of loan or borrowing, or any other liability credited in the books of an assessee shall be treated as explained only if the source of funds is also explained in the hands of the creditor.

**Exception.:** this additional onus of proof would not apply if the creditor is a well regulated entity, i.e., it is a Venture Capital Fund, Venture Capital Company registered with SEBI.

Applicable w.e.f. 01.04.2023 i.e. AY 2023-24

# Dividend & Bonus Stripping

- Sub-section (7) of section 94 deals with provisions prohibiting dividend stripping in shares or units.
- Sub-section (8) of section 94 deals with provisions prohibiting bonus stripping **in units**.
- Bonus stripping prohibitory/anti-avoidance provisions are made applicable even to shares and stocks.
- Further, these provisions are made applicable in case of ReITs, InvIT or AIFs (included in the definition of 'units').

*[applicable w.e.f. 01.04.2023 i.e. AY 2023-24]*

# Section 43B:

**Section 43B → Interest payable on any loan/borrowing borrowed from PFI/state financial corporation/state industrial undertaking/ NBFC/systematically important NBFC/scheduled bank/ co-op. bank.**

**Claiming deduction u/s 43B of the Act on account of conversion of Interest payable on an existing loan into a debenture as it amounts to actual payment, being constructive discharge of Interest liability - upheld by various courts and the Tribunals:**

Explanation 3C & 3CA & 3D to Section 43B of the Act were amended to provide that conversion of Interest payable under clause (d), clause (da) and clause (e) of section 43B, into debenture or any other instrument by which liability to pay is deferred to future date, **shall also not be deemed to have been actually paid.**

Applicable w.e.f. 01.04.2023 i.e. AY 2023-24.



## Tax relief for the parents and guardians of the person with disability

- Deduction of Rs. 75,000/-or Rs. 1,50,000/- for assessee having dependant person with disability for maintenance.
- The deduction to resident individuals u/s. 80DD(2) was allowed only with regard to any amount paid under a scheme issued by LIC or any other insurer where the scheme provides for payment of annuity or lumpsum **only in case of death of the subscriber (Parent/Guardian) to the dependent.**
- However, in some cases the person with disability may need payment of annuity or lumpsum during the lifetime of the parent and guardians also.

Finance Act, 2022:

- Hence, in order to remove such genuine hardship, amendment u/s. 80DD(2) was made so as **to allow even schemes providing** for payment of annuity or lumpsum amount upon attaining age of sixty years or more of the individual or the member of the HUF in whose name subscription to the scheme has been made and where payment or deposit has been discontinued.
- Further, the amount so received by the dependant disabled person, during the lifetime of the insurer shall not be taxable in the hands of such dependant disabled person.

# *Section 79A*

# Set-off against undisclosed income

- A new Section 79A was vide Finance Act, 2022.
- It provides that where consequent to a search proceeding u/s. 132 or u/s. 132A or survey proceedings u/s. Act [other than survey for withholding tax compliances under Section 133A(2A)]
- If Total Income of the taxpayer includes any undisclosed income, then- **no set off of any loss (including unabsorbed depreciation) shall be allowed against such undisclosed income.**

# *Section 14A*

# Disallowance u/s. 14A

- Section 14A cannot be invoked where no exempt income was earned by assessee
  - CIT vs. Chettinad Logistics (P.) Ltd. [2018] 257 Taxman 2 (SC)
  - PCIT vs. GVK Project and Technical Services Ltd. [2019] 106 taxmann.com 181 (SC)
- Amendment vide Finance Act, 2022:

*“For the removal of doubts, it is hereby clarified that notwithstanding anything to the contrary contained in this Act, **the provisions of this section shall apply** and shall be deemed to have always applied in a case where the income, not forming part of the total income under this Act, has not accrued or arisen or has not been received during the previous year relevant to an assessment year **and** the expenditure has been incurred during the said previous year in relation to such income not forming part of the total income.”*

# *Taxability of Interest on Provident Funds*

*ITR – 2 & 3*

# Background of the Amendment

- Section 10(11) and Section 10(12) provides that interest credited every year in the specified Provident Fund account **is exempt from tax.**
- However pursuant to amendment made vide Finance Act, 2021 if provident fund pays interest **above the specified limit, such excess interest is charged to tax.**

If there <b>is contribution</b> from Employer in a specified PF (e.g. EPF)	If there <b>is no contribution</b> from employer in a specified PF (e.g. PPF)
Taxable Interest: (under IFOS)	
The <b>interest income accruing</b> in respect of the assessee's contribution <b>over Rs. 2,50,000/-</b> during the AY	The <b>interest income accruing</b> in respect of the assessee's contribution <b>over Rs. 5,00,000/-</b> during the AY

- **Manner of deriving taxable component of interest → as per Rule 9D**

# Rule 9D

It provides that **separate accounts within the provident fund account** shall be maintained during the previous year 2021-22 and onwards for the taxable and non-taxable contribution made by the person.

## *Computation of Non-taxable & Taxable contribution:*

Non Taxable contribution A/c.	Taxable contribution A/c.
Balance as on 31.03.2021	---
+ Contribution upto threshold limit every year from FY 2021-22 (Rs. 2.5 Lakhs or Rs. 5 Lakhs)	Contribution in excess of threshold limit every year from FY 2021-22
+ Interest accrued upon above	+ Interest accrued upon above
- Withdrawal from the above	- Withdrawal from the above
= Rs. XXX	= Rs. XXX
Interest on above balance	Interest on above balance
Exempt u/s. 10(11) or 10(12)	Taxable under IFOS



# Reporting in 'IFOS'

v. Interest accrued on contributions to provident fund to the extent taxable as per first proviso to section 10(11)

vi. Interest accrued on contributions to provident fund to the extent taxable as per second proviso to section 10(11)

vii. Interest accrued on contributions to provident fund to the extent taxable as per first proviso to section 10(12)

viii. Interest accrued on contributions to provident fund to the extent taxable as per second proviso to section 10(12)

# *Taxation of ULIPS*

## Section 10(10D)

Section 10(10D) provides for exemption on any sum received under life insurance policy (+bonus on it)

No exemption in respect of policies: where premium > 10% of sum assured

Denial of exemption under section 10(10D) for ULIPS:

- Policies issued on or after 01.02.2021
- If annual premium > Rs. 2,50,000/-
- In any year during the term of the policy
- If multiple policies having premium > Rs. 2,50,000/-

Exemption allowable for those policies of which aggregate annual premium is upto Rs. 2,50,000/-

- Taxed under 'Capital Gains' section 45(1B)

# *Some relevant Schedules*

# *Schedule FA*

# Details of:

- Table A1 - Foreign depository accounts
- Table A2 - Foreign custodian accounts
- Table A3 - Foreign equity and debt interest
- Table A4 - Foreign cash value insurance contract or annuity contract
- Table B - Financial interest in any entity outside India
- Table C - Any immovable property outside India
- Table D - Any other capital assets outside India.
- Table E - Any other account located outside India in which you are a signing authority (which is not reported in tables A1 to D)
- Table F - Trust created outside India in which you are a trustee, a beneficiary or settlor.
- Table G - Any other income derived

# Who is required to report?

- If you are a resident in India, you are required to furnish details of any foreign asset etc.
- Resident being → beneficial owner or beneficiary or the legal owner.
- This Schedule need not be filled up if you are 'not ordinarily resident' or a 'non-resident'.
- Details are required to be reported even if the specified asset is held even for single day.
- If you have held foreign assets during the previous year which have been duly reported in the Schedule FA. Even then you are required to report such foreign asset again in the Schedule AL (if applicable)
- Rate of conversion → TTBR of foreign currency → exchange rate adopted by SBI

# Reporting based on 'Calendar Year'

- Period of reporting **was a confusion** → definition of “relevant accounting period” was given under the instructions to ITRs
- “relevant Accounting Period” → changed to  
“calendar year ending as on 31<sup>st</sup> December, 2022”

Schedule FA		Details of Foreign Assets and Income from any source outside India										
DETAILS OF FOREIGN ASSETS	A1	Details of Foreign Depository Accounts held (including any beneficial interest) at any time during the <b>calendar year ending as on 31<sup>st</sup> December 2021</b>										
	Sl No	Country name	Country code	Name of financial institution	Address of financial institution	ZIP code	Account number	Status	Account opening date	Peak balance during the period	Closing balance	Gross interest paid/credited to the account during the period
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
	(i)											
	(ii)											
	A2	Details of Foreign Custodial Accounts held (including any beneficial interest) at any time during the calendar year ending as on 31 <sup>st</sup> December 2021										
	Sl No	Country name	Country code	Name of financial institution	Address of financial institution	ZIP code	Account number	Status	Account opening date	Peak balance during the period	Closing balance	Gross amount paid/credited to the account during the period <i>(drop down to be provided specifying nature of amount viz. interest/dividend/proceeds from sale or redemption of financial assets/ other income)</i>

**AY 2023-24: ( 01.01.2022 – 31.12.2022) --- x--- 31.03.2023**



# *Details of Directorship*

*ITR – 2 & 3*

# Relevant Schedule

**Details of Directorship \***

Whether you were director in a company at any time during the previous year?

Yes  No

Add details of Company if you were a director at any time during the previous year

Name of Company *	Type of Company *
<input type="text"/>	<input type="radio"/> Domestic <input checked="" type="radio"/> Foreign
PAN of Company	Whether its shares are listed or unlisted *
<input type="text"/>	<input type="radio"/> Listed <input checked="" type="radio"/> Unlisted
Director Identification Number (DIN)	
<input type="text"/>	

- furnishing of PAN and DIN is not mandatory in case of a foreign company. However, PAN should be mentioned if such foreign company has been allotted a PAN.

# Relevant Schedule

- **non-resident taxpayer** who is **Director only in a foreign company**, which does not have any income received in India, or accruing or arising in India, should answer the relevant question in the negative, whereupon he would **not be required to disclose details of such foreign company**.
- A **non-resident taxpayer**, who is **Director in a domestic company** and in a foreign company, which does not have any income received in India, or accruing or arising in India **should answer the relevant question in the affirmative and provide details of directorship in the domestic company only**.
- A **resident taxpayer** is required to disclose details of directorship in any company, including foreign company, in the relevant column.

# Details of unlisted shares

ITR – 2,3,4,5,6,7

# Part A - General

- Whether you have held unlisted equity shares **at any time** during the previous year? If yes, please furnish following information in respect of equity shares - (YES/NO)
  
- Details Asked:
  - Name of company
  - Type of Company (Domestic/Foreign)
  - PAN
  - Op. Balance (No. of Shares & COA)
  - Shares Acquired During the Year  
(No. of shares, Face Value, Issue Price/Purchase price)
  - Shares Transferred during the year  
(No. of shares, sales consideration)

# Relevant Instructions

- If you have held shares of a company during the previous year, which are **listed** in a recognized stock exchange **outside India**. You may select “No” here and you are **not required to report the requisite details here**.
- In case PAN of delisted company cannot be obtained, you may enter a default value in place of PAN, as “NNNNN0000N”.
- In case unlisted equity shares are **acquired or transferred by way of gift, will, amalgamation, merger, demerger, or bonus issue etc.**, In such cases You may enter zero or the appropriate value against “cost of acquisition” or “sale consideration” in such cases.

# Relevant Instructions

- Please note that the details of unlisted equity shares held during the year are required only for the purpose of reporting. **The quantitative details entered in this column are not relevant for the purpose of computation of total income or tax liability**
- Even in case where you have **held unlisted equity shares as stock-in-trade of business** during the previous year you are required to report the same in this clause.
- In case you are **holding equity shares of a Co-operative Bank or Credit Societies**, which are unlisted, only the details of equity shareholding in any entity which is **registered under the Companies Act, and is not listed on any recognised stock exchange, is only required to be reported.**

*Investment in  
un-incorporated entity  
[ITR-6]*



# Schedule IF

## Schedule IF Information regarding investment in unincorporated entities

Number of entities in which investment is held									
ENTITIES IN WHICH INVESTMENT IS HELD	Sl. No.	Name of the entity	Type of the entity	PAN of the entity	Whether the entity is liable for audit? (Yes/No)	Whether section 92E is applicable to entity? (Yes/No)	Percentage Share in the profit of the entity	Amount of share in the profit	Capital balance on 31 <sup>st</sup> March in the entity
								I	ii
	1								
	2								
	3								
	4	Total							

# Details in Schedule 112A

ITR – 2,3,4,5,6,7

## CBDT Press Release dt. 26.09.2020

- There is no requirement in the return of income for scrip wise reporting in case of **short-term/business income arising from share transactions.**
- The scrip wise details in the return of income for AY 2020-21 is required to be filled up **only for the reporting of the long-term capital gains** for these shares/units which are eligible for the benefit of grandfathering.
- Thus, the main intent behind requiring scrip wise detail is **to facilitate the taxpayer in correctly computing the long-term capital gains** on these shares/units.

# Schedule AL

## [ITR 2,3,6]

## For ITR 2 & 3

- ITR 2: Applicable in the case of total income exceeds Rs.50 lakh
- ITR 3: **-Other than those included in Part A- BS**  
-Applicable in a case where total income exceeds Rs.50 lakh
- Assets and Liabilities at the **end of the year**
- If you are a 'non-resident' or 'resident but not ordinarily resident', **only the details of assets located in India** are to be mentioned.
- If you have held foreign assets during the previous year which have been duly reported in the Schedule FA. Even then you are required to report such foreign asset again in the Schedule AL

## For ITR 2 & 3

- For the purposes of this Schedule, the amount in respect of assets to be reported will be:-
  - (a) the cost price of such asset to the assessee; or
  - (b) where wealth-tax return was filed → the value of such asset as per the latest wealth-tax return + cost of improvement incurred .
- In case the asset became the property of the assessee under a **gift, will or any mode specified in section 49(1)**:

Cost for previous owner + cost of improvement (by assessee/previous owner)

In case where the **cost** at which the asset was acquired by the previous owner **is not ascertainable and no wealth-tax return was filed in respect of such asset**, the value may be estimated at the circle rate or bullion rate, as the case may be, on the date of acquisition by the assessee as increased by cost of improvement, if any, or **31st day of March, 2021**:

# For ITR 6 (Sch. AL- 1)

- Assets and liabilities as at the **end of the year** (only for **unlisted company**)
- This schedule is not required to be filled up by the **foreign unlisted company**.
- If you are a **start-up** which has filed declaration in Form-2 with DPIIT, aforesaid details should be filled up as per Schedule AL-2 and not in this Schedule.
- **Details of assets held as stock-in-trade of business are also required to be reported.** Only the aggregate values are required to be filled up, and the particular details of each asset held as stock-in-trade is not required to be reported. 'Purpose for which used → Stock in trade'
- In case unlisted company holds foreign assets during the previous year which have been duly reported in the Schedule FA , The same is also required to reported here.

*Dividend*  
*'IFOS' or 'PGBP' ?*



# Head of Income - Dividend

➤ Income from Other Sources:-

Section 56(2)(i)

➤ Dividend from shares/securities held as 'stock in trade':

- CIT v. Sphere Stock Holding (P.) Ltd. in [Tax Appeal No. 2583 of 2009, dated 23-8-2011] (Gujarat HC) → PGBP

- CIT vs. Excellent Commercial Enterprises & Investments Ltd. [2006] 282 ITR 423 (Delhi) → PGBP

- Sangam Investments Ltd. Vs. CIT [2014] 51 taxmann.com 279 (Allahabad)[03-09-2014] → IFOS

# Head of Income - Dividend

Schedule BP		Computation of income from business or profession	
A From business or profession other than speculative business and specified business			
1	Profit before tax as per profit and loss account (item 53, 61(ii), 62(ii), 63(ii), 64(iii) and 64(iv) of P&L)		
2a	Net profit or loss from speculative business included in 1 (enter -ve sign in case of loss) [Sl.no 65iv of Schedule P&L] (in case of no account case)	2a	
2b	Net profit or Loss from Specified Business u/s 35AD included in 1 (enter -ve sign in case of loss)	2b	
3	Income/ receipts credited to profit and loss account considered under other heads of income or chargeable u/s 115BBF or chargeable u/s 115BBG	a	Salaries 3a
		b	House property 3b
		c	Capital gains 3c
		d	Other sources 3d
		d	Dividend income 3di
		dii	Dividend income other than 3dii
e	u/s 115BBF 3e		
f	u/s 115BBG 3f		

# Interest under section 234C

Section 234C provides for levy of interest for default in payment of instalment(s) of advance tax.

Interest under section 234C is levied, if advance tax paid in any instalment(s) is less than the required amount.

Interest under section 234C is not levied, if, the shortfall in payment of advance tax is due to failure to estimate the amount of:

- a) capital gains or
- b) income referred to in section 2(24)(ix) (i.e. winning from lotteries, crossword puzzle, etc.) or
- c) income from a new business or
- d) Amount of dividend income

and the taxpayer pays the required advance tax on such income as a part of immediate following instalments or till 31st March, if no instalment is pending.

# Interest under section 234C

10 Information about accrual/receipt of income from Other Sources						
S.No.	Other Source Income	Upto 15/6	From 16/6 to 15/9	From 16/9 to 15/12	From 16/12 to 15/3	From 16/3 to 31/3
		(i)	(ii)	(iii)	(iv)	(v)
1	Income by way of winnings from lotteries, crossword puzzles, races, games, gambling, betting etc. referred to in section 2(24)(ix)					
2	Dividend Income referred in Sl. No. 1a(i)					
3	Dividend Income u/s 115A(1)(a)(i) @ 20% (Including PTI Income)					
4	Dividend Income u/s 115AC @ 10%					

# Section 57

## **Deduction against Dividend Income u/s. 57:**

- Only of Interest Expense
- Maximum – 20% of the Dividend Income.!!!
- No provision to C/F the Interest expense in excess of 20%

Brought forward business loss (PGBP) set off against dividend income (IFOS) - *discussed later*

# *Maintenance of BOA*

## Section 44AD(4)

Are you liable to maintain accounts as per section 44AA? (yes/No)

- In case you are engaged in any specified profession (i.e. legal, medical, engineering, architecture, accountancy, technical consultancy, interior decoration or any other notified profession), or
- your income from business or non-specified profession exceeds Rs. 2.5 lakh, or
- the turnover of such business or non-specified profession exceeds Rs. 25 lakhs,

you are liable to keep and maintain books of accounts and other documents.

Note: In case “Yes” is selected for this, any income which is being reported in Form 3CD as "Not routed through P&L Account", is expected to be routed through Schedule OI and Schedule BP.

*Applicability of  
Audit  
u/s. 44AB(e)*



## Section 44AD(5) [upto AY 2016-17]

- Sub-section (5) of section 44AD was substituted vide Finance Act, 2016 w.e.f. AY 2017-18.
- *“(5) Notwithstanding anything contained in the foregoing provisions of this section, an eligible assessee who claims that his profits and gains from the eligible business are lower than the profits and gains specified in sub-section (1) and whose total income exceeds the maximum amount which is not chargeable to income-tax, shall be required to keep and maintain such books of account and other documents as required under sub-section (2) of section 44AA and get them audited and furnish a report of such audit as required under section 44AB.”*

## Section 44AD(5) [upto AY 2016-17]

- The erstwhile provision for audit was plain and clear and requirement for maintaining books of accounts and getting them audited arose only when both of these conditions were fulfilled:

**1<sup>st</sup> condition:** The assessee claims that his profit rate is lower than the rate of profit provided in sub-section (1) [i.e. 8%/6%]

**2<sup>nd</sup> condition:** Such assessee's total income exceeded the minimum amount not chargeable to tax [i.e. basic exemption limit].

- Thus, for any given year assessee declared profit at lower rate than he was required to maintain books of accounts and get them audited for that particular Assessment Year only.

From the subsequent year, the assessee can again opt for presumptive taxation and there was no ineligible criteria for re-opting section 44AD.

- Presently, similar provision exists in section sub-section (4) of section 44ADA where if profits are declared at the rate lower than that prescribed (i.e. 50%) then tax audit requirements is attracted.

## Section 44AD(4)

- Section 44AD(4) provides that if for any AY the Assessee has opted for provisions of section 44AD and if anytime in immediately **succeeding** 5 assessment year such assessee **declares profit not in accordance with provisions of section 44AD**; then in such circumstances, the said assessee will be **ineligible to opt** for the benefit of presumptive taxation of section 44AD for 5 Assessment Years immediately succeeding the year in which the Assessee decides not to declare profit in accordance with section 44AD.
- Mr. RST claims to be taxed on presumptive basis under Section 44AD for AY 2019-20.  
For AY 2020-21 to 2022-23 also he offers income on the basis of presumptive taxation scheme.  
However, for AY 2023-24, he did not opt for presumptive taxation Scheme.  
In this case, he will not be eligible to claim benefit of presumptive taxation scheme for next five Assent Years, i.e. from AY 2024-25 to 2028-29.

## Section 44AD(5) [from AY 2017-18]

- Present section 44AD(5):

*“(5) Notwithstanding anything contained in the foregoing provisions of this section, an eligible assessee to whom the provisions of sub-section (4) are applicable and whose total income exceeds the maximum amount which is not chargeable to income-tax, shall be required to keep and maintain such books of account and other documents as required under sub-section (2) of section 44AA and get them audited and furnish a report of such audit as required under section 44AB.”*

- Section 44AB(e):

*“(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,”*

## Section 44AB(e) – Audit for 6 years

- As per the existing provisions of 44AD(5) once provisions of section 44AD(4) are applicable, maintaining of books and getting them audited applies.
- However, the moot issue is when the ineligibility provisions of section 44AD(4) are attracted, is it applicable for subsequent 5 assessment year.
- By strict interpretation of section 44AD(4) and 44AD(5) of read with section 44AB(e) it can be said that once provisions of section 44AD(4) is applicable the assessee will be liable to maintain books of accounts, get them audited and furnish report for total of 6 assessment Years (i.e. the AY in which section 44AD is not opted + subsequent 5 assessment years).

# CBDT – FAQs on section 44AD

- *“If a person adopts the presumptive taxation scheme but he opts out from the scheme in any of the subsequent five years, then what are the consequences?”*

*If a person opts for presumptive taxation scheme then he is also required to follow the same scheme for next 5 years. If he failed to do so, then presumptive taxation scheme will not be available for him for next 5 years. ....*

*He is required to keep and maintain books of account and he is also liable for tax audit as per [section 44AB](#) **from** the AY in which he opts out from the presumptive taxation scheme. [If his total income exceeds maximum amount not chargeable to tax]”*

**(The use of the word ‘from’ instead of ‘for’ in the answer to the above FAQ clearly suggests that the requirement of maintaining books of accounts and audit applies for a total of 6 assessment years.)**

## Scenarios of non-applicability of 44AB(e)

*Can there be a scenario where assessee declares profit lower than the prescribed profit rate but still is not liable to do audit?*

Yes, in the following scenarios it is possible that assessee may declare lower profit rate but still is not required to conduct audit:

- Scenario No.1:

It is the first year of business, turnover is upto Rs. 1 crore (limit of audit as per section 44AB); assessee maintains proper books of accounts and declare lower profit than 8%. In this scenario, provisions of sub-section (4) is not attracted **because it is the first year and there is no preceding year in which section 44AD might have opted so as to opt out in the relevant assessment year.**

.

## Scenarios of non-applicability of 44AB(e)

- Scenario No. 2:

Business of the assessee is continuing since several years, however in each of these preceding years the assessee has either get his accounts audited u/s. 44AB or has maintained proper books of accounts but was not subject to audit (say, turnover was upto Rs. 1 crore).

In this scenario also if assessee declares profit at the lower rate (by duly maintaining books of accounts), he still won't be attracted by provisions of sub-section (4) because he had never opted in for section 44AD so as to opt out of it.

Accordingly, even if lower profit is declared, audit as per clause (e) of section 44AB read with sub-section (5) of section 44AD will not be attracted.

Pertinent to mention that compliance of maintaining books of accounts as per the provisions of section 44AA needs to be kept in mind in both of the above scenarios



*Some relevant  
Judicial Precedents*

Sett off of brought forward  
business loss against current AY  
Capital Gains

*NandiSteels Ltd. vs. ACIT*  
*[2021] 128 taxmann.com 267 (Karnataka)*

**Brief Facts:**

Brought forward business loss of Rs. 40 lakhs

CY - no business - no business income

CY - Capital gains of Rs. 98 lakhs

Assessee -- set off b/s. business loss against CY capital gains

AO, CIT(A), Special Bench ITAT: such set off impermissible under section 72..

## Held:

The expression used in section 72(1) is '*under the head Profits and gains of business or profession*' [which deals with the type of loss which can be carried forward];

Whereas clause (i) of section 72(1) [which deals with type of loss against which carried forward business loss can be set off] does not use such expression. It uses the phrase '*it shall be set off against the profits and gains, if any, of any business or profession*'.

It was held that the legislation had consciously left it open that any income from business though classified under any other head (here, capital gains) can still be entitled to the benefit of set off against the brought forward business losses. Accordingly, brought forward business loss was held as allowable against capital gains of current year.

[Editorial: whether helpful for setting off against dividend income under IFOS?]

Delay on the part of the  
Professional

*ADCC Infocom (P.) Ltd. vs. PCIT*  
*[2023] 150 taxmann.com 529 (Bombay)*

**Brief Facts:**

The assessee filed the loss return on 23.03.2021 as against due on 15.02.2021 i.e., after the delay of 36 days.

Delay was on account of the CA who was engaged in some personal agenda.

Condonation application u/s. 119(2)(b) was rejected

Writ was filed against the above rejection

The Supreme Court as well as the High Court held that the phrase 'genuine hardship' would, inter alia, mean genuine difficulty and it should be construed liberally, particularly, in matters of entertaining of applications seeking condonation of delay.

1) the affidavit of the CA has neither been disputed nor controverted by the PCCIT.

2) due to fault on the part of professional, the Assessee should not suffer.

3) the delay is only of 36 days

4) Considering the phrase 'genuine hardship' used in section 119(2)(b) to be construed liberally, the case of the assessee comes within the sweep of phrase 'genuine hardship', particularly when there is no allegation of mala fide or deliberate delay on the part of the assessee.

Interest u/s. 234A/B/C when  
deductor after deducting TDS does  
not deposit it



*Shri Gurpreet Mohan Singh Bindra vs. JCIT*  
*[ITAT, Chandigarh; ITA 301/Chd/2022]*

Assessee earned salary income on which TDS was deducted by the employer but was not deposited to the government. **Direct recovery of the tax was made upon the Assessee.**

CIT(A) held that demand cannot be recovered from the Assessee as TDS was retained by the employer; **however he directed the AO to charge interest u/s. 234A, 234B and 234C.**

*Shri Gurpreet Mohan Singh Bindra vs. JCIT*  
*[ITAT, Chandigarh; ITA 301/Chd/2022]*

The deductor/payers act as the agents of the government in recovering the taxes; and in case of any default on the part of such deductor/payer, the consequences cannot be foisted on the deductee/payee.

The interest computation mechanism provided u/s. 234A, 234B and 234C inter-alia provides that amount of TDS (deducted/deductible) and TCS (collected/collectible) is required to be reduced while computing the quantum of tax on which such interest is leviable.

Thus, even if the TDS/TCS is not deposited by the deductor/payer to the government; the same is required to be reduced while computing the interest liability under section 234A, 234B and 234C.

Accordingly, it was held that no interest was leviable under section 234A, 234B and 234C upon the deductee Assessee.

*Delayed filing of Statutory forms*

*Satish Cold Storage vs. DCIT*  
*[ITAT, Lucknow; ITA 76, 77/Lkw/2021]*

Facts:

In the intimation u/s. 143(1) the deduction u/s. 80-IB was disallowed for non-filing of Form 10CCB along with return of income.

Form 10CCB was filed afterwards by way of rectification application u/s. 154.

Rectification request rejected by CPC;

CIT(A) there was no 'mistake apparent from record' in intimation issued u/s. 143(1)

*Satish Cold Storage vs. DCIT*  
*[ITAT, Lucknow; ITA 76, 77/Lkw/2021]*

*CBDT Circular No. 689/1994:*

It inter-alia provided that when audit report which is otherwise required to be furnished along with the return of income was not furnished; then disallowance under respective section can be made as prima-facie adjustments u/s. 143(1). However, if evidence is subsequently furnished, rectification u/s. 154 should be carried out.

That the Assessee was entitled to claim deductions by furnishing the audit report in rectification application u/s. 154 and the revenue in the said case had erred in rejecting such rectification application.

# *Annual Information Statement*

## Source of Law

- Section 285BB
- Rule 114-I
- From 26AS
- Notifications/Circulars:  
Order F. No. 225/155/2020/ITA.II, dated 29-9-2020.  
Notification F.No. 225/155/2020/ITA-II, dated 26-10-2021.

# *E-Campaign*



# User Manual/FAQ on e-campaign

*The objectives of e-Campaign are:*

- 1) To collect taxpayer feedback/ explanation on selected information and queries.*
- 2) To promote **voluntary compliance** and deter non-compliance.*

*The e-Campaign functionality available at Compliance Portal of the Income-tax Department enables a taxpayer to:*

- View and provide feedback on AIS information selected under e-Campaign*
- **View and provide response on queries asked under e-Campaign***

*Following are the categories where response is expected from taxpayer under e-Campaign:*

- Preliminary Response*
- Feedback on Information on AIS*

## Preliminary Response

Under Preliminary Response section, taxpayer is expected to provide response against relevant questions. The queries under Preliminary Response section are based on campaign type.

Note: User will be able to provide response on defined e-Campaign type (For Example, in e-Campaign type ‘Non-Filing of Return’, query can be on filing of return – ‘Whether Income Tax Return (ITR) has been filed’).

# AIS Feedback

- This functionality enables taxpayers to provide feedback on the information which is marked as **Expected** under e-Campaign, where no feedback has been provided.

Quantity	Sale Price Per unit	Sales Consideration	STT	Cost of Acquisition	Unit FMV	Fair Market Value	Indexed Cost of Acquisition	Status	Feedback
1,031.72	484.63	5,00,000	5	1,87,312	266.73	2,75,187.81	0	Active	Expected
660.23	1,135.98	7,50,000	8	2,22,436	672.32	4,43,884.50	0	Active	Expected
445.65	1,121.96	5,00,000	5	1,11,043	672.32	2,99,620.98	0	Active	Expected

- Note: Taxpayer is required to provide feedback on the information which is marked as Expected.

## Feedback type

- Feedback Processing - Information is correct:

If the information is marked as **correct**, the **reported value** in Annual Information Statement (AIS) **is taken as correct**.

## Feedback type

- Information is not fully correct (Not applicable for bulk feedback):

If the information is marked **as not fully correct**, the **modified attributes and values** are saved in Annual Information Statement (AIS) .

The **derived value** (i.e. value derived after considering the taxpayer feedback) in Taxpayer Information Summary (TIS) will also be reduced to enable seamless pre-filling.

The feedback will be processed in accordance with the risk management system.

In cases where modification is substantial, information source may be contacted to confirm the modification or provide additional information.

# Feedback type - Info. Not fully correct

Feedback Type: Information is not fully correct		
Your Feedback: Information is not fully correct		
Update Information Detail :		
AMC Name (Code)	Date of Sale/Transfer	Security Class
ICICI Prudential Mutual Fund(P)	14/12/2022	Unit of Equity Oriented Mutual Fund
Security Name (Security Code)	Debit Type	Credit Type
ICICI Prudential Multi-Asset Fund - Growth(INF	AMC (redemption)	AMC (purchase)
Asset Type	Quantity	Sale Price Per unit
Long term	1031.72	484.63
Sales Consideration	STT	Cost of Acquisition
500000	5	187312
Unit FMV	Fair Market Value	Indexed Cost of Acquisition
266.73	275187.81	0

Activate Windows  
Go to PC settings to activate W

# Duplicate Information

- Information is duplicate/ included in other information

If the information is marked as **duplicate** or **stated to be included in other information**, the **modified value** in Annual Information Statement (AIS) **will be taken as 0**.

The derived value (i.e. value derived after considering the taxpayer feedback) in Taxpayer Information Summary (TIS) will also be reduced to enable seamless pre-filing.

The feedback will be processed in accordance with the risk management system.

In cases where information marked as duplicate is substantial, information source may be contacted to confirm the modification or provide additional information.

# Other Feedback type

- Information relates to other **PAN/Year**:

Feedback Type:

Your Feedback: Information relates to other PAN/ Year

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**Add details relating to other PAN/Year**

Self/Other Person	PAN	PAN Name
<input type="text" value="Other Person"/>	<input type="text" value="CGIPM4364F"/>	<input type="text" value="SXXXXXXXX AXXY MXXXXA"/>
Relationship of other person	Financial Year	Amount
<input type="text" value="Relative"/>	<input type="text" value="2020-21"/>	<input type="text" value="5000"/>

\*Any Previous FY\* option should be chosen under 'Financial Year' column only when the information doesn't belong to any specific year available in the drop down

Maximum 50 rows can be added here.

**Information details related to other PAN/Year**

Self/Other Person	PAN	PAN Name	Relationship of other person	F.Y.	Amount
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Editorial: issues of PAN reporting in case of property purchased by firm through partner.



## Other Feedback type

- *Information is denied:*

If the information is **denied**, the **modified value** in Annual Information Statement (AIS) **will be taken as 0**.

The derived value (i.e. value derived after considering the taxpayer feedback) in Taxpayer Information Summary (TIS) will also be reduced **to enable seamless pre-filing**.

The feedback will be processed in accordance with the risk management system.

In cases where information denied is substantial, information source may be contacted to confirm the modification or provide additional information.

- *Transfer not in the nature of sale.*
- *Income is not taxable*

## FAQs on AIS (Annual Information Statement)

*Q-13 Is there any limit on the number of times I can modify a given feedback?*

*Currently, there is no limit on the number of times you can modify previously given feedbacks.`*

## Can a response submitted be modified?

For modification, user needs to select reason and provide remarks, if required. Below are the reasons for modification:

- Earlier response provided by mistake
- Incorrect details entered
- **Response no longer valid**
- Others

If the user selects “Others” as a reason, the remarks text box becomes mandatory.

Note: Modification can be done multiple times. For each submission done by taxpayer, separate acknowledgement receipt PDF would be generated by system which can be viewed through “Activity History”.

*Departmental FAQs on  
Issues in ITR filing*

# FAQ: Question No.5: 26AS vs. AIS/TIS

## Question 5:

**Difference between income as shown in AIS and 26AS?**

## Resolution:

Income reflected in AIS and 26AS are based on information received from different sources and tax compliance made by different stakeholders. These are made available to the Taxpayer for reference purpose. Taxpayer should check his book of records and provide information in the return as per the information available with him.

If there is variation between the TDS/TCS or tax payments as provided in Form 26AS and the TDS/TCS or tax payments provided in AIS, the Taxpayer may rely on the TDS/Tax payment information provided in 26AS for the purpose of filing of tax return and for computing Pre-paid Taxes.

*Notices to Assesseees u/s. 133(6) seeking details of professionals*

Notices to Assesseees seeking contact details of:

a) the CA/tax practitioner who has filed the ITR

b) Whether proof of donation were provided to them?

c) Who had signed the ITR?

*Due Date may*  
*NOT get*  
*EXTENDED...!!!*

*Thank You*

*Audience*

*J.B. Nagar Study Circle  
(WIRC-ICAI)*



*'It's not the Profession that Glorifies You,  
You Glorify the Profession.'*

*(281 and Beyond - VVS Laxman)*

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*CA. Shashank A. Mehta*

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