

RECENT ISSUES IN TAX AUDIT U/S 44 AB OF INCOME TAX ACT, 1961(A.Y.2017-18)

- CA JAYESH J SHAH

I. IMPORTANT CLAUSES OF REPORT IN FORM 3 CD

Clause No.	Particulars	Issues																																											
12.	Whether the profit and loss account includes any profits and gains assessable on presumptive basis, if yes, indicate the amount and the relevant section (44AD, 44AE, 44AF, 44B, 44BB, 44BBA, 44BBB, Chapter XII-G, First Schedule or any other relevant section.)																																												
13.	<p>(a) Method of accounting employed in the previous year</p> <p>(b) Whether there had been any change in the method of accounting employed vis-a-vis the method employed in the immediately preceding previous year.</p> <p>(c) If answer to (b) above is in the affirmative, give details of such change, and the effect thereof on the profit or loss.</p> <table border="1" data-bbox="293 1224 1218 1356"> <thead> <tr> <th>Serial number</th> <th>Particulars</th> <th>Increase in profit (Rs.)</th> <th>Decrease in profit (Rs.)</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table> <p>(d) Whether any adjustment is required to be made to the profits or loss for complying with the provisions of income computation</p> <p>(e) If answer to (d) above is in the affirmative, give details of such adjustments:</p> <table border="1" data-bbox="253 1524 1284 1862"> <thead> <tr> <th></th> <th></th> <th>Increase in Profit (Rs.)</th> <th>Decrease in Profit (Rs.)</th> <th></th> </tr> </thead> <tbody> <tr> <td>ICDS I</td> <td>Accounting Policies</td> <td></td> <td></td> <td></td> </tr> <tr> <td>ICDS II</td> <td>Valuation of Inventories</td> <td></td> <td></td> <td></td> </tr> <tr> <td>ICDS III</td> <td>Construction Contracts</td> <td></td> <td></td> <td></td> </tr> <tr> <td>ICDS IV</td> <td>Revenue Recognition</td> <td></td> <td></td> <td></td> </tr> <tr> <td>ICDS V</td> <td>Tangible Fixed Assets</td> <td></td> <td></td> <td></td> </tr> <tr> <td>ICDS VI</td> <td>Changes in Foreign Exchange Rates</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Serial number	Particulars	Increase in profit (Rs.)	Decrease in profit (Rs.)							Increase in Profit (Rs.)	Decrease in Profit (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				
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ICDS VIII	Securities				
ICDS IX	Borrowing Costs				
ICDS X	Provisions, Contingent Liabilities and contingent assets				
Total					

(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

17.	<p>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:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="width: 30%;">Details of property</th> <th style="width: 30%;">Consideration received or accrued</th> <th style="width: 30%;">Value adopted or assessed or assessable</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	Details of property	Consideration received or accrued	Value adopted or assessed or assessable					
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18.	<p>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 :-</p> <p>(a) Description of asset/block of assets.</p> <p>(b) Rate of depreciation.</p> <p>(c) Actual cost of written down value, as the case may be.</p> <p>(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 –</p> <ul style="list-style-type: none"> 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. 		
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	(e) Depreciation allowable. (f) Written down value at the end of the year	
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 (if available with the assessee) of the lender or depositor; (ii) amount of loan or deposit taken or accepted;	

II. Issues :

1. Applicability of Sec 44 AB to Business / Profession -

- What are Limits of Turnover ?
- Whether Turnover will include – Excise , VAT , Service Tax etc ?
- How to determine the Turnover for Sec 44 AD & 44ADA , where no books of Accounts are required to be maintained ?

2. Examine the applicability of Sec U/s 44 AD:

- MrA , Resident , proprietor of trading activity having turnover of 80 lakhs and having profit of Rs.3 Lakhs
- MrJ , having Mfg turnover of Rs. 50 lakhs and reported loss of Rs.5 Lakhs
- MrB , Karta of B .B. Shah (HUF) , proprietor of FMCG goods supplier having Turnover of Rs.1.5 Crores
- MrC , NRI having trading activity having turnover of Rs 25 Lakhs
- M/s XYZ , partners ship firm running Chemical Mfg unit having Turnover of Rs. 1.75 Crores
- In above case if Turnover is 2.25 Crores whether it will change the position
- In above case if firm is havingMfg unit in SEZ and claiming benefits U/s 10AA Whether that will make any difference
- M/s DEF LLP , is engaged in trading and Mfg of Fabrics in Mumbai and total Turnover of Rs. 1.80 Crore
- M/s GHI PvtLtd , engaged in shares trading having business of 60 Lakhs
- MrK , engaged in Brokerage and Commission business having income of Rs.50lakhs

3. M/s XYZ, partnership firm engaged in retail Business achieved Turnover of 1.50 Crores during the AY 2017-18. The Firm is having total receipts in cash . Partners have withdrawn Salary & Interest as per partnership deed of Rs.6 Lakh & 2 Lakhs respectively.Pls advise the firm on calculation of Tax .
4. M/s XYZ , firm of Chartered Accountants has gross receipts of Rs.45 Lakhs and net surplus of 25 Lakhs after deduction of depreciation of 2 Lakhs on Motor car. Partners drawn salary of 15 lakhs from the firm .Pls advise the Depreciation and Salary is allowable.
5. Whether Assessee declaring Income under presumptive Taxation is required to explain each cash deposit in Bank related to gross receipt of trade?
6. Whether AO after accepting the 8% profit under Presumptive taxes can asked to prove the cost of 92% to Assessee?
7. In case of Assessee engaged in supply of labour and civil contracts offering income u/s 44AD , difference of turnover as per 26 AS can be added as a total Income of the Assessee ?