

Tax Audit
under section 44AB of Income Tax, 1961

Who is liable to Tax Audit?

As per Section 44AB of Income Tax Act 1961,

- Assesses carrying on business whose sales, turnover exceed Rs 1 Crore in any Previous Year
- Assesses carrying on profession whose gross receipts exceed Rs 25 Lakh in any Previous Year
and
- Assesses who claims their income to be lower than the profits or gains deemed to be the profits and gains of their business under sections 44AD, 44AE, 44BB or 44BBB
- Accounts to be audited by an accountant before the specified due 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

Sec 44AD, 44AE, 44BB or 44BBB

- Sec 44AD - Applicable from AY 2011-12, a tax payer can assume his income to be 8% of his total turnover and pay tax on the income so computed. This type of tax is called presumptive taxation. It applies only in case of Individuals Partnerships & HUF resident in India
Prior to AY 2011-12, this section was only applicable to the business of civil construction. Now applicable to all types of business except:
 - Plying, Hiring or Leasing of Goods which is covered U/s 44AE
 - Professionals as the sections specifically mentions the word business
- 44AE - Presumptive taxation for transporters
- 44BB - Presumptive taxation of business of exploration etc of mineral oil
- 44BBB - Presumptive taxation of non residents engaged in the business of Civil Construction etc in certain turnkey power projects

Definitions of terms used U/s 44AB

- Business – activity carried on continuously and systematically by a person by the application of his labour or skill with a view to earning income. It includes trade, commerce, manufacture or any adventure or concern in the nature of trade, commerce or manufacture
- Profession – Profession includes vocation. Profession involves the idea of an occupation requiring purely intellectual skill or manual skill controlled by the intellectual skill of the operator (Sec 44AA lists out few professions like accountancy, Architectural, Authorised Representative, Company Secretary, Engineering, Film Artists/Actors, Cameraman, Director, Interior Decoration, Legal, Medical, Technical Consultancy, Information Technology)
- Sales Turnover or Gross Receipts– Not defined in the Act, reference CST Act 1956, Companies Act 2013, Guidance Note
- Accountant – Chartered Accountant, Sec 288(2) of Income Tax Act, Sec 141 of Companies Act 2013

Definitions - contd

Sales Turnover as per Guidance Note:

“The aggregate amount for which sales are effected or services rendered by an enterprise. The term ‘gross turnover’ and ‘net turnover’ (or ‘gross sales’ and ‘net sales’) are sometimes used to distinguish the sales aggregate before and after deduction of returns and trade discounts”.

Gross Receipts as per Guidance Note:

The term "gross receipts" is also not defined in the Act. It will include all receipts whether in cash or in kind arising from carrying on of the business which will normally be assessable as business income under the Act. Broadly speaking, the following items of income and/or receipts would be covered by the term "gross receipts in business"- Cash assistance, Interest recd by money lender, Commission brokerage etc recd by business of chit funds, exchange rate difference, liquidated damages, insurance claims- except for fixed assets, sale of scrap, etc

Tax Audit – Applicability and Additional Points

- Business not covered under presumptive taxation, if the turnover does not exceed Rs 1 Crore are not liable to Tax Audit
- Assessors claiming deduction U/s 80IA, 80IB, 80IC etc who are required to get their accounts audited in the prescribed form under the respective sections are also required to get tax audit report under section 44AB if the turnover of all the units put together exceeds the specified limit.
- As per generally accepted accounting policies, t/o is to be reduced by the trade discounts and not by cash discounts
- Sale return is also to be reduced even if the sales are related to the last year
- Sale proceeds from sale of fixed assets, will not form part of turnover & also sale proceeds from shares, securities debentures – not part of turnover, yes if held as stock in trade

Tax Audit – Applicability and Additional Points

- A question may also arise as to whether the sales by a commission agent or by a person on consignment basis forms part of the turnover of the commission agent and/or consignee as the case may be. In such cases, it will be necessary to find out, whether the property in the goods or all significant risks, reward of ownership of goods belongs to the commission agent or the consignee immediately before the transfer by him to third person. If the property in the goods or all significant risks and rewards of ownership of goods continue to belong to the principal, the relevant sale price shall not form part of the sales/turnover of the commission agent and/or the consignee as the case may be. If, however, the property in the goods, significant risks and reward of ownership belongs to the commission agent and/or the consignee, as the case may be, the sale price received/receivable by him shall form part of his sales/turnover.
- Same is the case for Share Brokers. Shares sold on behalf of customers, only commission will form part of turnover and in case of transactions entered into by share broker on his personal account, the sale value should also be taken into account for considering the limit for the purpose of section 44AB. The case of a sub-broker is not different from that of a share broker.

Tax Audit – Applicability and Additional Points

- In the case of an assessee carrying on business and at the same time engaged in a profession as to what are the limits applicable to him under section 44AB for getting the accounts audited. In such a case if his professional receipts are, say, rupees twenty seven lakhs but his total sales, turnover or gross receipts in business are, say, rupees seventy two lakhs, it will be necessary for him to get his accounts of the profession and also the accounts of the business audited because the gross receipts from the profession exceed the limit of rupees twenty five lakhs. If however, the professional receipts are, say, rupees twenty one lakhs and total sales turnover or gross receipts from business are, say, rupees eighty six lakhs it will not be necessary for him to get his accounts audited under the above section, because his gross receipts from the profession as well as total sales, turnover or gross receipts from the business are below the prescribed limits.
- It may, however, be noted that in cases where the assessee carries on more than one business activity, the results of all business activities should be clubbed together. In other words, the aggregate sales, turnover and/or gross receipts of all businesses carried on by an assessee would be taken into consideration in determining whether the prescribed limit

Tax Audit – Applicability and Additional Points

- It may be appreciated that the object of audit under section 44AB is only to assist the Assessing Officer in computing the total income of an assessee in accordance with different provisions of the Act. Therefore, even if the income of a person is below the taxable limit laid down in the relevant Finance Act of a particular year, he will have to get his accounts audited and to furnish such report under section 44AB, if his turnover in business exceed the prescribed limit
- The case of non-residents may be considered separately. Section 44AB does not make any distinction between a resident or non-resident. Therefore, a non-resident assessee is also required to get his accounts audited and to furnish such report under section 44AB if he is earning income taxable in India and is above the specified limit

Who can do Tax Audit?

- Accountant as defined under the Income Tax Act ie a Chartered Accountant. So it is compulsory to appoint a Chartered Accountant or a firm of Chartered Accountants for Tax Audit
- For associations like society where Statutory Audit can be conducted by authority other than Chartered Accountant, Tax Audit if applicable, is to be done by Chartered Accountant
- It can be a Statutory Auditor or a separate Chartered Accountant as Tax Auditor
- There can be one or more joint Tax Auditors. In this case either they have to agree on a single report presented or they can issue separate reports.

Procedure of taking up Tax Audit

- Appointment letter – signed by the person competent to sign the return of income, no other tax auditor is appointed for the specified year, name and address of the tax auditor for the previous year, remuneration
- Appointment of tax audit need not be made in General Meeting, can be made by BOD or by any other officer if authorised by the board of directors.
- NOC from previous auditor is required as per the Code of ethics issued by the ICAI. In the case of a person whose accounts of the business or profession have been audited under any other law (i.e. a company, a co-operative society, etc. which is required to get the accounts audited under a Statute) it is not necessary to communicate with the statutory auditor if he had not done tax audit in the earlier year.
- Audit engagement letter – with all the terms and conditions required for conducting the audit

Precautions

- Ceiling on tax audit fixed – 60, 44AD, 44AE not incl in the limit. Audit required by different statutes or laws will not be covered under the limit of 60. For instance, Audit under DVAT 2004, Audit u/s 44AD, etc. Ceiling of 60 is per partner, joint auditor – audit counted for both, HO and Branch to be considered as 1
- Engagement Letter – Section 143 of the Companies Act 2013 gives certain powers to the auditors to call for the books of account, information, documents, explanations, etc. and to have access to all books and records. No such powers are given to the tax auditor appointed under section 44AB. Attention is invited to SA 210, Agreeing the Terms of Audit Engagements. Therefore Engagement Letter should mention the pre conditions for the access of the books, explanations to be given wherever required, etc
- PSU/ Govt Co/ Listed Co/ Other Public Co with T/o of Rs 50 Crore or more, Statutory Auditor if engaged in other work of the company and the total fees exceeds more than the Audit Fees, it's a professional misconduct. Other work incls consultancy, etc but excludes audit under other statutes. Therefore, tax audit is not considered for the limit defined.

Tax Audit Report

- Audit report constituted of Form 3CA/ 3CB and 3DC
- Form 3CA is applicable to the assesses carrying on business or profession and who is required by or under any other law to get his accounts audited
- Form 3CB is applicable to assesses other than the assesses mentioned above
- Form 3CD forms annexure to the audit report with Part A and Part B
 - Part A constitutes of the basic details of the assessee like Name, Address, PAN, Liability of Indirect Taxes, Status, PY, AY, Sec under which audit is conducted.
 - Part B contains all other details and annexure as per the format
 - The Form contains 41 clauses

Tax Audit Report

- The Audit Report went through few changes as per the notification issued by CBDT on 25th July 2014 which was applicable from the AY 2014-15.
- Considering the changes in the Audit Report, the Guidance Note was also revised in 2014
- Along with the change in format, department has made it compulsory to file the report through e-filing portal.
- The report is also required to be signed digitally while uploading
- The Tax Audit Report along with the Statutory Audit Report is to be uploaded by the Auditor through his e-filing portal which is to be registered as a tax professional
- The uploaded Audit Report needs to be accepted by the client for the final submission to the department.

Changes in Tax Audit Report

Contents of relevant clause as per Old Form No. 3CA	Contents of relevant clause as per New Form No. 3CA
<p>I/We report that the statutory audit of ... [mention name and address of the assessee with permanent account number] was conducted by * me/us/M/s. in pursuance of the provisions of the....Act, and *I/we annex hereto a copy of * my/our/their audit report datedalong with a copy each of –</p>	<p>*I / we report that the statutory audit of <u>M/s.....</u> (Name and address of the assessee with Permanent Account Number) was conducted by *me / us / M/s.....in pursuance of the provisions of the.... Act, and *I/we annex hereto a copy of * my / our / their audit report datedalong with a copy of each of :-</p>
<p>(a) the audited * profit and loss account/income and expenditure account for the year ended on 31st March,....;</p>	<p>(a) the audited *profit and loss account / income and expenditure account <u>for the period beginning fromto ending on</u></p>
<p>(b)the audited balance sheet as at 31st March,....</p>	<p>(b) the audited balance sheet as <u>at,;</u></p>
<p>3. In * my/our opinion and to the best of * my/our information and according to explanations given to * me/us, the particulars given in the said Form No. 3CD and the Annexure thereto are true and correct.</p>	<p>3. In *my / our opinion and to the best of * my / our information <u>and according to examination of books of account including other relevant documents</u> and explanations given to *me / us, the particulars given in the said Form No.3 CD are true and correct <u>subject to the following observations/qualifications, if any</u></p>

Changes in Tax Audit Report

Contents of relevant clause as per Old Form No. 3CA	Contents of relevant clause as per New Form No. 3CA
<p>This report has to be signed by-</p> <ul style="list-style-type: none">(i) a chartered accountant within the meaning of the Chartered Accountants Act, 1949 (38 of 1949); or(ii) any person who, in relation to any State, is, by virtue of the provisions of sub-section (2) of section 226 of the Companies Act, 1956 (1 of 1956), entitled to be appointed to act as an auditor of companies registered in that State; or(iii) any person who is, by virtue of any other law, entitled to audit the accounts of the assessee for the relevant previous year.	<p>This report has to be signed by <u>a person eligible to sign the report as per the provisions of section 44AB of the Income Tax Act, 1961.</u></p>

Changes in Tax Audit Report

Contents of relevant clause as per Old Form No. 3CB	Contents of relevant clause as per New Form No. 3CB
<p>In *my/our opinion and to the best of *my / our information and according to explanations given to *me / us, the particulars given in the said Form No.3 CD and the Annexures thereto are true and correct.</p>	<p>In *my/our opinion and to the best of *my / our information and according to explanations given to *me / us, the particulars given in the said Form No.3 CD are true and correct <u>subject to following observations/qualifications, if any:</u></p>
<p>Signature</p>	<p>Signature <u>and stamp/Seal of the signatory</u></p>
<p>3. **This report has to be signed by-</p> <ul style="list-style-type: none"> (i) a chartered accountant within the meaning of the Chartered Accountants Act, 1949 (38 of 1949); or (ii) any person who, in relation to any State, is by virtue of the provisions of sub-section (2) of section 226 of the Companies Act, 1956 (1 of 1956), entitled to be appointed to act as an auditor of companies registered in that State; or (iii) any person who is, by virtue of any other law, entitled to audit the accounts of the assessee for the relevant previous year. 	<p>3. This report has to be signed by <u>a person eligible to sign the report as per the provisions of section 44AB of the Income Tax Act, 1961.</u></p>

Changes in Tax Audit Report

Clause No. as per old Form 3CD	Clause No. as per new Form 3CD	Contents of relevant clause
1 – 3	1 – 3	Name, address and PAN of the assessee
-	4	<u>Whether the assessee is liable to pay indirect tax like excise duty, service tax, sales tax, customs duty, etc. if yes, please furnish the registration number or any other identification number allotted for the same.</u>
4 – 6	5 – 7	Status of the assessee, previous year and assessment year
-	8	<u>Indicate the relevant clause of section 44AB under which the audit has been conducted</u>
7	9	(a) If firm or association of persons, indicate names of partners/members and their profit sharing ratios. (b) If there is any change in the partners or members or in their profit sharing ratio since the last date of the preceding year, the particulars of such change
8	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.

Changes in Tax Audit Report

Clause No. as per old Form 3CD	Clause No. as per new Form 3CD	Contents of relevant clause
9	11	Details vis-à-vis books of accounts and relevant documents maintained
10	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.)
11	13	(a) Method of accounting employed in the previous year (b) Whether there had been any change in the method of accounting. (c) If answer to (b) above is in the affirmative, give details of such change, and the effect thereof on the profit or loss. (d) Details of deviation, if any, from accounting standards prescribed under section 145 and the effect thereof on the profit or loss.
12	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 details of increase / decrease in profit.
12A	15	Details of the capital asset converted into stock-in-trade

Changes in Tax Audit Report

Clause No. as per old Form 3CD	Clause No. as per new Form 3CD	Contents of relevant clause
13	16	Amounts not credited to the profit and loss account, being, (a) the items falling within the scope of section 28; (b) the proforma credits, drawbacks, refund of duty of customs or excise or service tax, or refund of sales tax or value added tax where such credits, drawbacks or refunds are admitted as due by the authorities concerned; (c) escalation claims accepted during the previous year; (d) any other item of income; (e) capital receipt, if any.
-	17	<u>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 and value adopted or assessable.</u>

Changes in Tax Audit Report

Clause No. as per old Form 3CD	Clause No. as per new Form 3CD	Contents of relevant clause
15	19	Amounts admissible u/s. 32AC, 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 alongwith amount debited to the P&L A/c. and amounts admissible as per the Income-tax Act, 1961.
16	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) in the given format.
17(a) – 17(e)	21(a)	Details of amounts debited to the profit and loss account, being in the nature of capital, personal, advertisement expenditure, 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.

Changes in Tax Audit Report

Clause No. as per old Form 3CD	Clause No. as per new Form 3CD	Contents of relevant clause
17 (f)	21 (b)	Amount inadmissible u/s. 40 (a)
17 (g)	21 (c)	Amounts debited to profit and loss account being, interest, salary, bonus, commission or remuneration inadmissible u/s. 40(b)/40(ba) and computation thereof.
17 (h)	21 (d)	Disallowance / deemed income u/s. 40A(3)
17 (i)	21 (e)	Provision for payment of gratuity not allowable u/s. 40A(7)
17 (j)	21 (f)	Any sum paid by the assessee as an employer not allowable u/s. 40A(9)
17 (k)	21 (g)	Particulars of any liability of a contingent nature
17 (l)	21 (h)	Amount of deduction inadmissible in terms of section 14A in respect of the expenditure incurred in relation to income which does not form part of the total income.
17(m)	21 (i)	Amount inadmissible under the proviso to section 36(1)(iii).

Changes in Tax Audit Report

Clause No. as per old Form 3CD	Clause No. as per new Form 3CD	Contents of relevant clause
25	32	<p>(a) Details of brought forward loss or depreciation allowable in the prescribed format</p> <p>(b) Whether a change in shareholding of the company has taken place in the previous year due to which the losses incurred prior to the previous year cannot be allowed to be carried forward in terms of section 79.</p> <p>(c) Whether the assessee has incurred any speculation loss referred to in section 73 during the previous year, If yes, please furnish the details of the same.</p> <p>(d) Whether the assessee has incurred any loss referred to in section 73A in respect of any specified business during the previous year, if yes, please furnish details of the same.</p> <p>(e) In case of a company, please state that whether the company is deemed to be carrying on a speculation business as referred in explanation to section 73, if yes, please furnish the details of speculation loss if any incurred during the previous year.</p>
26	33	Section-wise details of deductions, if any, admissible under Chapter VIA or Chapter III (Section 10A, Section 10AA)

Changes in Tax Audit Report

Clause No. as per old Form 3CD	Clause No. as per new Form 3CD	Contents of relevant clause
27	34	<p>(a) Whether the assessee is required to deduct or collect tax as per the provisions of Chapter XVII-B or Chapter XVII-BB, if yes furnish requisite details.</p> <p>(b) whether the assessee has furnished the statement of tax deducted or tax collected within the prescribed time. If not, furnish requisite details</p> <p>(c) whether the assessee is liable to pay interest under section 201(1A) or section 206C(7). If yes, furnish requisite details.</p>
28	35	<p>(a) In the case of trading concern, quantitative details of principal items of goods traded</p> <p>(b) In the case of a manufacturing concern, give quantitative details of the principal items of raw materials, finished products and by-products</p>
29	36	<p>In the case of a domestic company, details of tax on distributed profits under section 115-O in the following form :-</p> <p>(a) total amount of distributed profits;</p> <p>(b) amount of reduction as referred to in section 115-O(1A)(i);</p> <p>(c) amount of reduction as referred to in section 115-O(1A)(ii);</p> <p>(d) total tax paid thereon;</p> <p>(e) dates of payment with amounts</p>

Changes in Tax Audit Report

Clause No. as per old Form 3CD	Clause No. as per new Form 3CD	Contents of relevant clause
30	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
31	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
-	39	<u>Whether any audit was conducted under section 72A of the Finance Act, 1994 in relation to valuation of taxable services, Finance Act, 1994 in relation to valuation of taxable services, 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</u>
32	40	Details regarding turnover, gross profit, etc., for the previous year and preceding previous year
-	41	<u>The details of demand raised or refund issued during the previous year under any tax laws other than Income-tax Act, 1961 and Wealth tax Act, 1957 alongwith details of relevant proceedings.</u>

Analysis of Tax Audit Report

Clause 4 ~ Whether the assessee is liable to pay indirect tax like excise duty, service tax, sales tax, customs duty, etc. If yes, please furnish the registration number or any other identification number allotted for the same.

- Obtain from the assessee, the list of indirect taxes applicable to him and ensure the completeness during the course of the audit.
- Obtain a copy of the registration certificate clearly mentioning the registration number under that relevant law, e.g., Service tax/ Excise/ VAT/ Central Sales tax registration number.
- For Customs Duty there is no registration no. and therefore consider giving Export Import code (IEC).

Analysis of Tax Audit Report

Clause 6: Previous year in relation to which tax audit is conducted is required to be mentioned.

Clause 8: The relevant clause of section 44AB under which the audit has been conducted is required to be mentioned.

Clause 11(b): Details of books of accounts maintained and the address at which the books of accounts are kept is required to be given. If the books are not kept at one location, the addresses of locations along with the details of books of accounts maintained at each location is required to be given.

Clause 11(c): Nature of the relevant documents examined along with the books of accounts is required to be given (*i.e. the nature of relevant documents could be agreements, company policies, returns filed under applicable laws, etc. – i.e. documents reviewed during the course of tax audit*).

Analysis of Tax Audit Report

Clause 12: 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).

Clause 13(c): The details of any change in the method of accounting employed in the previous year and the effect thereof on the profit and loss needs to be given in the **prescribed format** as given below:

Serial number	Particulars	Increase in profit (Rs.)	Decrease in profit (Rs.)

Analysis of Tax Audit Report

Clause 14(b): The details of any deviation from the method of valuation of closing stock prescribed under section 145A and the effect thereof on the profit and loss needs to be given in the **prescribed format** as given below:

Serial number	Particulars	Increase in profit (Rs.)	Decrease in profit (Rs.)

- Study the procedure followed by the assessee in taking the inventory of stock at the end of the year and the valuation thereof.
- Obtain the basis of valuation of inventory for reporting on the method of valuation of closing stock under this clause.
- Examine the basis adopted for ascertaining the cost and this basis should be consistently followed.

Analysis of Tax Audit Report

Clause 15: Give the following particulars of the capital asset converted into stock-in-trade: —

- (a) Description of capital asset;
 - (b) Date of acquisition;
 - (c) Cost of acquisition;
 - (d) Amount at which the asset is converted into stock-in-trade.
- The clause does not require details regarding the taxability of capital gains or business income arising from such deemed transfer.
 - For ascertaining the correct date of acquisition, refer to the accounts of the financial year in which such capital asset has been acquired. The date assumes importance for the purpose of determining whether the asset is long-term or short-term in nature.
 - In case of depreciable assets, the amount to be reported will be the original cost of acquisition. Further, in case of block of assets a particular asset loses its identity and, therefore, to report the original cost of acquisition may not be possible in all cases.
 - The valuation of stock-in-trade is to be examined with reference to AS-2 - Valuation of Inventories.

Analysis of Tax Audit Report

Clause 17: Details of any transfer of land or building or both for consideration less than value adopted or assessed or assessable by any authority of a State Government for the payment of stamp duty referred to in section 43CA or 50C is required to be given in the prescribed format as shown below:

Details of property	Consideration received or accrued	Value adopted or assessed or assessable

Analysis of Tax Audit Report

Special provisions for full value of consideration ~ Section 43CA:

Special features :

1.Provision of Section 43CA is applicable to all categories of assesseees who deal in immovable property being land or building or both. Thus, the provision of this section is applicable to Individual, Firm, HUF, Company or any other category of assesseees.

2.Provision of this section is applicable to all kind of immovable properties being land or building or both, held as stock in trade. It may be -
residential flat,
commercial flat,
industrial building or plot,
residential plot in a township,
agricultural land whether in rural or urban area, etc.

3.Provision of Section 43CA shall be applicable in case of transfer of ownership of property by any mode.

In case, transfer of immovable property takes place without registration of sale deed but by way of execution of agreement to sell, etc., or in any other manner, provision of section 43CA shall be applicable.

Analysis of Tax Audit Report

Other Issues ~ Section 43CA

Issues to be thought of:

- Real estate developer/builder, etc., are required to follow the following method for revenue recognition-
 - Percentage Completion Method:
(i.e. revenue is recognized on a year to year basis)
 - *based on accounting principles recommended in the Guidance Note on Real Estate Transactions.*
- Section 43CA is triggered on “transfer” of property in the nature land or building or both (other than capital asset).
- “Transfer” is defined u/s. 2(47) – applicable only to “capital assets”
- “Transfer” under the ‘Transfer of Property Act, 1882’ to be considered (i.e. transfer on sale, transfer on part performance of contract, conditional transfer, etc.)

Analysis of Tax Audit Report

Other Issues ~ Section 43CA

- Different views are possible v/v. "**transfer**" of property –
- ❖ Property is under construction – so ‘transfer’ is subsequent – section 43CA creates deeming fiction and therefore, rule of strict construction to be followed;
- ❖ Guidance Note on Accounting for Real Estate Transactions recommends recognition of revenue on % age completion method based on fulfillment of certain criteria (i.e. project costs and revenues can be estimated reasonably, reasonable level of development of project, etc.) and rebuttable presumption (v/v approvals, collection of revenue, etc.)
- **Section 43CA – can be applied if and only if property in question – can be said to be ‘transferred’.**
- Point of ‘transfer’ of property to be determined on the basis of sale deed/agreement
- Generally, in real estate, ‘property’ transfers on fulfillment of conditions on part of buyer and seller and subject to registration of title to property, etc.
- *Therefore, under PCM method of accounting – revenue may be recognized based on stage of completion – however, section 43CA will be triggered in the year of ‘transfer’ and reporting will be required to be made in the Tax Audit Report accordingly.*

Analysis of Tax Audit Report

Special provisions for full value of consideration ~ Section 50C (Cont.)

- ❖ Leasehold/Tenancy Rights
- ❖ Booking Rights
- ❖ Sale of TDR / FSI
- ❖ Depreciable assets

Special provisions for full value of consideration ~ Section 50C (Cont.)

- ❖ Applicability of Section 50C to slump sale u/s 50B
 - Capital asset in the context of section 50B covers assets and liabilities of the undertaking, i.e. **“all assets minus all liabilities”**.
 - Section 50C applies to transfer of capital asset "being land or building or both" and does not extend to capital asset "being an undertaking". Therefore, section 50C does not apply to section 50B.
 - The definition of 'slump sale' has made it clear determination of the value of asset or liability for the purposes of payment of stamp duty, etc., shall not be regarded as assignment of values to individual assets or liabilities;
 - Therefore, even if the assets of the undertaking include land or building or both, the stamp duty value shall be ignored in so far as the computation of full value of consideration of the "undertaking" as a whole is concerned.
 - Reliance in this regard can be placed on the decision of the Mumbai Tribunal in the case of **Summit Securities Ltd.** - (2012) 19 taxmann.com 102

Analysis of Tax Audit Report

Special provisions for full value of consideration ~ Section 50C (Cont.)

List of things which auditor needs to examine -

- List of properties transferred;
- Consideration received or accrued as a result of transferred as recorded in the books of accounts;
- Registered sale document for 'assessed value'
- If not registered - relevant documents from the authorities to satisfy compliance of section 43CA/ section 50C v/v. 'assessable' transactions;
- When no such documents are available from the relevant authorities then he may state the same in the form of observation in the audit report

Analysis of Tax Audit Report

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 of written down value, as the case may be.
- (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

Analysis of Tax Audit Report

Some important points ~ Clause 18

- Obtain a depreciation schedule from the client showing opening block, additions and deletions to fixed assets, depreciation rate applied, amount of depreciation claimed, etc.
- Verify the opening written down value from the computation enclosed with the previous year's return and the Form 3CD of the previous year. Enquire if there are disputes with respect to classification or rate of depreciation for the assessee raised by the Income tax authorities.
- Ensure that the fixed assets additions are correctly classified as per the relevant blocks, rates and descriptions. Obtain and verify the reconciliation of additions and deletions to fixed assets as per the audited financial statements.
- In cases where additional depreciation is being claimed, ensure that the conditions specified in the section have been complied with for the assets in respect of which such additional depreciation is being claimed.

Analysis of Tax Audit Report

Clause 19: Apart from the deductions specified earlier, deductions claimed under sections 32AC, 35AD, 35CCC and 35CCD are also required to be reported. In relation to all deductions claimed, the form also refers to **fulfillment of conditions specified under the relevant provisions** of law, rules or any other guidelines, circulars, etc. issued in this behalf.

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.

Analysis of Tax Audit Report

Issues ~ Implications of section 32AC of the Income-tax Act, 1961

❖ Investment allowance in terms of section 32AC of the ITA can be claimed on investments made in the new plant and machinery **acquired and installed** after 31 March 2013 but before 01 April 2015.

- *What is meant by “installed” to ensure that the condition mentioned in section 32AC is met?*

- The word 'installed' has not been defined under the ITA.

❖ Twin condition to be fulfilled – i.e. the new plant and machinery should be **acquired and installed during the period 01 April 2013 to 31 March 2015.**

- If some of the new plant and machinery has been acquired before 31 March the condition specified in section 32AC is not fulfilled and hence, investment allowance w.r.t such new plant and machinery cannot be claimed.

Analysis of Tax Audit Report

Clause 20(b): Details of contributions received from employees for various funds as referred to in section 36(1)(va) is required to be given in the prescribed format as shown below:

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

Analysis of Tax Audit Report

Issues ~ Contributions received from employees

❖ As per section 43B of the Income-tax Act, 1961, certain expenses (eg. provident fund contributions) are allowed as a deduction only on actual payment.

❖ The Karnataka High Court in the case of **CIT v/s. Magus Customers Dialog (P.) Ltd (57 taxmann.com 94)** has held that employees' contribution towards provident fund made by assessee/employer on or before the due date of filing of return under section 139 would be eligible for deduction under section 43B of the Income-tax Act, 1961.

❖ Further, the Bombay High Court in the case of **CIT(Pune) v/s. Ghatge Patil Transports Ltd. (53 taxmann.com 141)** has held that both the employers' as well as the employees' contribution would be entitled to deduction on actual payment.

Analysis of Tax Audit Report

Notification by the CBDT (contd.):

Clause 21(a): Detailed information with respect to amount debited to the profit and loss account in respect of capital expenditure, personal expenses, advertisement expenses, expenditure incurred at clubs, penalty, etc. is required to be given in the prescribed format as shown below:

Nature	Serial Number	Particulars	Amount in Rs.

Analysis of Tax Audit Report

ICAI Guidance Note

~ Clause 21 (a) ~ Penalties and 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.

❖ He can rely on the expert opinion. It must be borne in mind that the tax auditor while reporting under this clause is not required to express any opinion as to the allowability or otherwise of the amount of penalty or fine for violation of law.

❖ Even if the assessee is contesting against such order before higher authorities, the same will not be relevant and the mere point for ascertaining is whether such sum is debited to the profit and loss account and if yes, the same has to be disclosed.

Paragraph No. 34.1

Analysis of Tax Audit Report

ICAI Guidance Note

~ Clause 21 (a) ~ Penalties and fine

❖ A penalty imposed for violation of any law during the course of trade cannot be described as a commercial loss. Even if the need for making payments has arisen out of trading operations, the payments are not wholly and exclusively for the purpose of the trade.

❖ Where the penalty or fine is in the nature of penalty or fine only, the entire amount thereof will have to be stated.

❖ 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.

Paragraph No. 34.1

Analysis of Tax Audit Report

Clause 21(b): Detailed break-up of the amounts disallowable under section 40(a) is required to be given.

Details required to be given for resident and non-resident payments.

In relation to disallowance for non-deduction of tax at source, the disallowance has to be bifurcated between:

- (a) tax not deducted; and
- (b) tax deducted but not paid by the specified date; in addition, detailed information in relation to payee, amount, date of payment and nature of payment has to be provided.

Analysis of Tax Audit Report

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, details are required to be furnished in the below format:

(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 in Rs.	Name and Permanent Account Number of the payee, if available

Analysis of Tax Audit Report

ICAI Guidance Note ~ Clause 21 (d) ~ Amounts inadmissible u/s. 40A(3)

❖ No disallowance would be made if the payment or aggregate of payments, exceeding Rs. 20,000 is made to a person in a day otherwise than by an account payee cheque drawn on a bank or account payee bank draft in respect of cases and circumstances prescribed under Rule 6DD having regard to the nature and extent of banking facilities available, considerations of business expediency and other relevant factors. Notification No.208/2007 dated 27.6.2007 has amended Rule 6DD w.e.f. A.Y. 2008-09..

❖ The e-filing portal requires reporting of inadmissible amount under section 40A(3) read with Rule 6DD under Item (B) of this clause in the following format:

Particulars	Amount

Analysis of Tax Audit Report

ICAI Guidance Note ~ Clause 21 (d) ~ Amounts inadmissible u/s. 40A(3)
The auditor should maintain the following particulars in his audit working papers file:

Sr. No.	Nature and particulars of expenditure	Date of Payment	Payment or aggregate payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft	Total amount of expenditure	Remarks

Analysis of Tax Audit Report

ICAI Guidance Note ~ Clause 21 (g) ~ Liability of a contingent nature

❖ 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.

Analysis of Tax Audit Report

ICAI Guidance Note ~ Clause 21 (h) ~ Disallowance u/s. 14A

❖ At the time of tax audit the tax auditor will have to verify the amount of inadmissible expenditure as determined by the assessee. The method under sub-rule (2) of Rule 8D is to be adopted by the Assessing Officer when he is not satisfied with the amount as determined by the assessee.

❖ The tax auditor will verify the amount of inadmissible expenditure as estimated by the assessee with reference to established principles of allocation of expenditure based on logical parameters like proportion of exempt and taxable income recorded, turnover, man hours spent to earn the relevant income etc.

❖ For allocation of interest between taxable and non taxable income, the quantum of investment, the period and the rate of interest are generally the relevant factors to be considered. This requires proper estimates to be made by the assessee. The tax auditor is required to audit such estimates. Attention is invited to Standard on Auditing - 540 "Audit of Accounting Estimates".

Analysis of Tax Audit Report

ICAI Guidance Note ~ Clause 21 (h) ~ Disallowance u/s. 14A

Other issues in the: Components of the Formula:

<i>Item</i>	<i>View</i>
Fixed assets – gross (before depreciation) or net	Net (after depreciation)
Investments – before or after provision for diminution in value	After
Deferred tax asset	To be included
Current assets – gross amount or net of current liabilities?	Gross
Deferred revenue expenditure / Profit and loss account (Debit balance)	Not to be included
Interest capitalized	Not to be included

Analysis of Tax Audit Report

ICAI Guidance Note ~ Clause 21 (h) ~ Disallowance u/s. 14A

❖ An assessee may claim that no expenditure has been incurred by him in relation to income which does not form part of the total income under the Act. Even in such a case the provisions of section 14A will apply. Accordingly, the tax auditor is required to verify such contention of the assessee.

❖ After verifying the amount of inadmissible expenditure, if the tax auditor:

❖ is in agreement with the assessee, he should report the amount with suitable disclosures of material assumptions, if any.

❖ is not in agreement with the assessee with regard to the amount of expenditure determined, he may give:

❖ A qualified opinion:

❖ A qualified opinion can be given when the auditor is of the opinion that the effect of any disagreement with the assessee is not so material and pervasive as to require an adverse opinion or limitation on scope is not so material and pervasive as to require a disclaimer of opinion.

Analysis of Tax Audit Report

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

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

Clause 24. Amounts deemed to be profits and gains under section 32AC or 33AB or 33ABA or 33AC.

Clause 25. Any amount of profit chargeable to tax under section 41 and computation thereof.

Analysis of Tax Audit Report

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

Analysis of Tax Audit Report

Some important points ~ Clause 26

- Obtain from the client schedules relating to Section 43B.
- Prepare a reconciliation of outstanding liability as of year-end as per the financial statements and amount reported under clause 43B.
- Report payments to employees in respect of salaries, wages, leave travel assistance, reimbursement of expenses, etc. made in cash.
- Details of payments/adjustments (as in case of sales tax) made during the year but disallowed in the earlier years should be indicated to enable allowance of such amounts as deduction during the year.
- The items for disallowance u/s. 43B are to be disallowed irrespective of whether the amounts have been passed through the statement of profit and loss or not. Further, where the amounts are routed only through the balance sheet, such fact should be stated against the respective items under this clause.

Analysis of Tax Audit Report

Clause 28: Details of shares received of a company, not being a company in which the public are substantially interested, without consideration or for inadequate consideration as referred to in section 56(2)(viia) is required to be reported.

Issues ~ Section 56(2)(viia)

The provisions of section 56(2)(viia) read as under:

“Where a firm or a company not being a company in which the public are substantially interested, receives, in any previous year, from any person or persons, on or after the 1st day of June, 2010, any property, being shares of a company not being a company in which the public are substantially interested, –

(i) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;

(ii) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration:

Provided that this clause shall not apply to any such property received by way of a transaction not regarded as transfer under clause (via) or clause (vic) or clause (vich) or clause (vid) or clause (vii) of section 47.

Explanation – For the purposes of this clause, “fair market value” of a property, being shares of a company not being a company in which the public are substantially interested, shall have the meaning assigned to it in the Explanation to clause (vii);”

Analysis of Tax Audit Report

Issues ~ Section 56(2)(viia)

The Memorandum explaining the provisions of the Finance Bill 2010 provides as under:

“Taxation of certain transactions without consideration or for inadequate Consideration.

.....

A. These are anti-abuse provisions which are currently applicable only if an individual or an HUF is the recipient. Therefore, transfer of shares of a company to a firm or a company, instead of an individual or an HUF, without consideration or at a price lower than the fair market value does not attract the anti-abuse provision.

In order to prevent the practice of transferring unlisted shares at prices much below their fair market value, it is proposed to amend section 56 to also include within its ambit transactions undertaken in shares of a company (not being a company in which public are substantially interested) either for inadequate consideration or without consideration where the recipient is a firm or a company (not being a company in which public are substantially interested). Section 2(18) provides the definition of a company in which the public are substantially interested. It is also proposed to exclude the transactions undertaken for business reorganization, amalgamation and demerger which are not regarded as transfer under clauses (via), (vic), (vich), (vid) and (vii) of section 47 of the Act.”

Analysis of Tax Audit Report

Applicability of section 56(2)(viia) on certain transactions relating to shares

❖ The provisions of section 56(2)(vii) were introduced as a counter evasion mechanism to prevent laundering of unaccounted income under the garb of gifts, particularly after abolition of the Gift Tax Act. The provisions were intended to extend the tax net to such transactions in kind. The intent is not to tax the transactions entered into in the normal course of business or trade, the profits of which are taxable under specific head of income.

❖ The CBDT has issued Notification F.No.142/21/2009-SO (TPL) dated 8 April 2010 inserting Rule 11UA which provides for the computation mechanism of income u/s. 56(2)(vii)

❖ A plain reading of section 56(2)(viia) reveals that the following conditions should be fulfilled for its applicability:

- The recipient is a firm or a company not being a company in which public are substantially interested i.e., a Closely Held Company (“CHC”);
- The transferor can be any person;
- The subject matter of receipt is shares of a CHC (demat or physical form);
- Such receipt of shares is on or after 1 June 2010;
- The shares are received without consideration or for inadequate consideration vis-à-vis the FMV of the shares as computed under Rule 11UA; and
- The shares are received by the Firm/ CHC other than in the circumstances of business re-organisation, amalgamation or demerger specified in the proviso

Analysis of Tax Audit Report

❖ Issues ~ Applicability of section 56(2)(viiia) on certain transactions relating to shares

Whether section 56(2)(viiia) would apply in case of receipt of newly allotted bonus shares/ right shares, at a price lower than the FMV?

- The Memorandum to the Finance Bill 2010 indicates that the provisions should apply only in case of “transfer” of shares
- The bonus/right shares are not in existence as at the date of allotment. The issue of bonus shares/ right shares is nothing but allotment of fresh shares to the existing shareholders on account of their existing shareholding.

Analysis of Tax Audit Report

Issues ~ Applicability of section 56(2)(viia) on certain transactions relating to shares

- The Mumbai Bench of the ITAT in the case of Sudhir Menon HUF vs. Asst. CIT (ITA No. 4887/Mum/2013) held that since receipt of bonus shares would be merely a split of the existing shares and there would not be an enhancement in the wealth or property or shareholding of the shareholder over and above its existing holding, the provisions of Section 56(2)(vii) of the Act should not be applicable
- Further, the treatment in case of bonus shares would equally apply to a right issue as far as no disproportionate allotment is made by the company, i.e. pro-rata allotment of rights shares is carried out.
- However where disproportionate allotment is done resulting an increase in the interest of a shareholder in the company / underlying assets, the same would be covered within the provisions of Section 56(2)(vii) of the Act.

Analysis of Tax Audit Report

Issues ~ Applicability of section 56(2)(viiia) on certain transactions relating to shares

- ❖ **Whether the buyback of shares by a company at less than FMV would attract section 56(2)(viiia)?**
- ❖ **Whether section 56(2)(viiia) would apply in case of shares received by a Company as a part of “undertaking” in a merger/ demerger/ slump sale?**
- ❖ **Applicability of section 56(2)(viiia) in case of shares received by a partnership firm/ LLP as capital contribution from its partners**
- ❖ **Applicability of section 56(2)(viiia) to a non-resident in respect of shares of an Indian company received from another non-resident.**

Analysis of Tax Audit Report

Clause 29: Details of any consideration received for issue of shares which exceeds the fair market value of the shares as referred to in section 56(2)(viib).

- The provisions of section 56(2)(viib) read as under:

“Where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares:

Analysis of Tax Audit Report

Clause 31(c) : Reporting requirements have been amended to specifically mention whether the taking or accepting loan or deposit or repayment of the same were made by account payee cheque drawn on a bank or a account payee bank draft based on the examination of books of accounts and relevant documents

Certificate from the assessee regarding taking or accepting loan or deposit, or repayment of the same through an account payee cheque or an account payee bank draft which was required under the old clause 24(c) has been deleted.

Analysis of Tax Audit Report

Clause 32(a): Details of brought forward loss or depreciation allowance, in the following manner, to the extent available:

Serial Number	Assessment Year	Nature of loss/ Allowance	Amount as Returned	Amounts as assessed (give reference to relevant order)	Remarks

What happens when the Appellate authorities decide in favour of Appellant and Order giving effect is not passed?

Analysis of Tax Audit Report

Some important points ~ Clause 32

- No loss is allowed to be carried forward, unless the Return of Income of that year is filed on or before the due date.
- Verify from the intimation / Order under Section 143(1)/(3) if any change has been made in the above figures.
- Reconcile the details reported under this clause with the loss amounts disclosed in the return of income filed by the assessee for the previous year.

Analysis of Tax Audit Report

Clause 33: Details of deduction claimed under Chapter VIA of Chapter III (section 10A, section 10AA) are required to be provided. In relation to all deductions / tax holidays claimed, the forms also refers to fulfilment of conditions specified under the relevant provisions of law, rules or any other guidelines, circulars, etc. issued in this behalf.

Section under which deduction is claimed	Amounts admissible as per the provision of the Income-tax Act, 1961 and 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.

Analysis of Tax Audit Report

Clause 34: (a) Details required to be given in below prescribed formats where assessee is required to deduct or collect tax under the provisions of Chapter XVII B or Chapter XVII-BB

TAN	Section	Nature of Payment	Total amount of payment or receipt of nature specified in column (3)	Total amount on which tax was required to be deducted or collected out of (4)	Total amount on which tax was deducted or collected at specified rate out of (5)	Amount of tax deducted or collected out of (6)	Total amount on which tax was deducted or collected at less than specified rate out of (7)	Amount of tax deducted or collected on (8)	Amount of tax deducted or collected not deposited to the credit of the Central Government out of (6) and (8)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

Analysis of Tax Audit Report

Clause 34: (b) details of statements of TDS or TCS not filed within the prescribed time limits needs to be reported in prescribed formats as below:

Tax deduction and collection Account Number (TAN)	Type of Form	Due date for furnishing	Date of furnishing, if furnished	Whether the statement of tax deducted or collected contains information about all transactions which are required to be reported

(c) details of payment of interest u/s. 201(1A) or 206C(7) needs to be reported in prescribed formats as below:

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.

Analysis of Tax Audit Report

Clause 36: Dividend and Dividend Distribution Tax including dividends received by a domestic company from its subsidiary that is reduced for the purpose of payment of dividend distribution tax.

Clause 37, 38 and 39: Disclosure required for details of any disqualification or disagreement on any matter / item / value / quantity as reported / identified by:

Cost auditor

Auditor that conducted audit under the Central Excise Act, 1944

Auditor that conducted audit under section 72A of the Finance Act, 1994 in relation to valuation of taxable services.

Analysis of Tax Audit Report

Clause 40: The accounting ratios of preceding financial year are additionally required to be disclosed. Moreover, the total turnover for the current financial year as well as for the preceding financial year is required to be reported.

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		

Analysis of Tax Audit Report

Clause 41: Details of demand raised or refund issued under any tax laws other than Income-tax Act, 1961 and Wealth tax Act, 1957, along with details of relevant proceedings are required to be reported.

Submission of Report

- If there is any unreasonable delay on the part of CA, he is answerable to the Institute if a complaint is made by the client. However, if the delay in the completion of audit is attributable to his client, the tax auditor cannot be held responsible. It is, therefore, necessary that no chartered accountant should accept audit assignments which he cannot complete within the above time frame.
- Penalty – There is heavy penalty on non or late filing of Report. It may amount to half percent of the total sales, turnover or gross receipts or Rs One Lakh Fifty Thousand whichever is lower.
- However, in view of the specific provisions contained in section 273B, no penalty is imposable under section 271B on the assessee for the above failure if he proves that there was reasonable cause for the said failure. The onus of proving reasonable cause is on the assessee. Cases like resignation of tax auditor, death or physical inability of the partner, labour problems such as strike, lock out etc

Submission of Report

Can Tax Audit Report be submitted without Statutory Annual Report?

-3CA requires tax auditor to enclose the audit report but it will be possible for the tax auditor to give his report in form 3CB and to certify the relevant particulars in Form 3CD

Revision of Tax Audit Report

Report under section 44AB should not normally be revised.

However, sometimes a member may be required to revise his tax audit report on grounds such as:

- (i) revision of accounts of a company after its adoption in annual general meeting.
- (ii) change of law e.g., retrospective amendment.
- (iii) change in interpretation, e.g. CBDT Circular, judgements, etc.

In case where a member is called upon to report on the revised accounts, then he must mention in the revised report that the said report is a revised report and a reference should be made to the earlier report also. In the revised report, reasons for revising the report should also be mentioned.

Fees

Fees – as per the responsibility and time devoted to the assignment. Institute has recommended fees chargeable. It is recommended that members of the profession should maintain reasonable standards of professional fees.

Thank You