After studying this chapter, you will be able to:

- Identify the provisions of Section 12A of the Act dealing with the conditions as to registration of trust. Also understand exemption from Income tax that would be available under sections 11 and 12 of the Income-tax Act in relation to the income of any trust or institution on fulfillment of certain conditions.

- Know reporting requirements of Form No 3CA/3CB and 3CD. Understand each and every clause of Form 3CD.

- Identify that books of accounts accurately reflect the income of tax payers and deductions are correctly declared.


- Practical application of various clauses of Form 3CD.

- Understand and learn the various provisions of GST Audit.
1. INTRODUCTION

For ensuring compliance sometimes audit becomes a necessity. Therefore, various statutes, including legislations governing direct and indirect tax provisions have incorporated audit provisions in some or the other form. Under direct taxes, the Central Board of Direct taxes has posed onerous responsibility on the auditor via Income-tax Act, 1961 which has various provisions requiring compulsory audit. However, with the growing importance of the indirect taxes - now one tax i.e GST in the economy, the Government is realizing the need of audit by independent bodies especially equipped to do the same. Introduction of audit provisions in the newly introduced GST legislations is a step towards this direction.

2. AUDIT(S) UNDER THE INCOME-TAX ACT, 1961

General provisions: The Income-tax Act, 1961 (hereinafter referred to as the Act) contains several provisions for audit of accounts of public charitable trusts, non-corporate assesses and other assesses to meet the specific objectives of the Act. Under the Act, several sections such as 12A, 35D, 35E, 44AB, 80IA, 80-IAB, 80-IB, 80-IC, 80-ID, 80-IE, 142(2A), etc., require audit of accounts.

* Source: Community tax
for tax purposes. We shall discuss the requirements of some of these provisions from the audit angle.

Who can audit the Accounts under the Income-tax Act - Normally, in all the sections referred to above, subject to the exceptions specifically provided, the audit is to be conducted by an 'accountant', as defined in the Explanation below Section 288(2) of the Act.

### 2.1 Audit of Public Trusts

Section 12A of the Act deals with the conditions as to registration of trust etc. According to this section, exemption from Income tax would be available under sections 11 and 12 of the Income tax Act in relation to the income of any trust or institution provided the following conditions are satisfied:

**(A)** Clause (a) of section 12A requires a charitable or religious trust or institution to make an application for registration within one year from the date of creation of the trust or establishment of the institution. The Commissioner is empowered to condone the delay in making the application for registration if he is satisfied that there were sufficient reasons for such delay. In such cases, the exemption provisions of section 11 and 12 would apply from the date of creation of the trust or establishment of the institution.

Now, the application can be filed at any time. Further, a proviso has been inserted in clause (a) to restrict the applicability of that clause to applications made prior to 1st June, 2007.

Also, the power of the Commissioner to grant registration for past years, by condoning the delay in filing such application, has been removed.

Accordingly, in respect of applications filed on or after 1st June, 2007, the provisions of sections 11 and 12 shall apply from the assessment year relevant to the financial year in which the application is made i.e. the exemption would be available only with effect from the assessment year relevant to the previous year in which the application is filed. It would not be available in respect of any earlier assessment year.

**(B)** Where the total income of the trust or institution as computed under this Act, without giving effect to the provisions of Sections 11 and 12 exceeds the maximum amount which is not chargeable to income tax in any previous year i.e. ₹ 2,50,000 for the A.Y. 2018-19, the accounts of the trust or institution for that year have been audited by an accountant as defined in the explanation below sub-section (2) of Section 288 and the person in receipt of the income furnishes along with the return of Income for the relevant assessment year, 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. Rule 17B of the Income tax Rules, 1962 provides that the report of audit of accounts of a trust or institution which is required to be furnished under Clause (b) of Section 12A should be in Form No. 10B.
The audit programme is outlined in the following paragraphs:

(a) **Preliminary:**
   
   (i) Obtain a resolution from the trust specifying the appointment as also indicating the
   
   scope of audit. In particular, the resolution should specify the duties of the auditor in
   
   relation to the items specified in the annexure to the prescribed Form No. 10B.
   
   (ii) Obtain a letter of appointment from the trust, before accepting the audit, communicate
   
   with such previous auditor.
   
   (iii) Obtain a certificate as to the opening balances of assets and liabilities and the fund.
   
   (iv) Obtain a list of books of accounts which are maintained by the trust.
   
   (v) Obtain a certificate from the trust as to the system of accounting and internal control.
   
   (vi) Obtain from the trust a list of the institutions/activities run/carried out by the trust.
   
   (vii) Obtain from the trust a certified true copy of the Deed of Trust or any other scheme
   
   containing the objects and conditions of the trust as operative from time to time.

(b) **Routine Checking:**
   
   (i) Check the books of account and other records having regard to the system of
   
   accounting and internal control.
   
   (ii) Vouch the transactions of the trust to satisfy that:
   
   (a) the transaction falls within the ambit of the trust;
(b) the transaction is properly authorised by the trustees or other delegated authority as may be permissible in law;

(c) all incomes due to the trust have been properly accounted for on the basis of the system of accounting followed by the trust;

(d) all expenses appertaining to the trust have been recorded on the basis of the system of accounting followed by the trust; and

(e) amounts shown as applied towards the object of the trust are covered by the objects of the trust as specified in the document governing the trust.

(iii) Obtain a trial balance on the closing date certified by the trustees.

(iv) Obtain the Balance Sheet and Profit & Loss Account of the trust authenticated by the trustees and check the same with the trial balance with which they should agree.

(c) **Accounting Principles:** The auditor should follow, i.e., generally accepted accounting principles and ascertain the accuracy, truth and fairness of the Balance Sheet and Profit & Loss Account.

<table>
<thead>
<tr>
<th>In particular, the auditor will scrutinize that:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) all assets of the trust are verified;</td>
</tr>
<tr>
<td>(ii) the assets of the trust have been properly valued and depreciation duly provided for;</td>
</tr>
<tr>
<td>(iii) all liabilities of the trust are properly accounted for;</td>
</tr>
<tr>
<td>(iv) the investments of the trust are properly classified and indicated and market values shown; and</td>
</tr>
<tr>
<td>(v) outstanding due to the trust are properly accounted for and their recoverability examined and provision made for irrecoverable.</td>
</tr>
</tbody>
</table>

(d) **Annexure to the Audit Report:**

(i) Obtain from the trustees, a certified list of persons covered by Section 13(3).

(ii) Obtain from the trustees, a statement enlisting the various items specified in the Annexure to Form No. 10B and giving the information against each item together with explanatory or supporting schedules.

(iii) Verify the information supplied by the trustees in the statements specified above in the light of available material. Where a list of persons specified in Section 13(3) is not available, indicate against Sections II and III of the items specified in the annexure the appropriate qualifying remarks.

The audit report is required to be furnished to the relevant year. Failure to furnish the report will disentitle the trust or institution to the benefit of Sections 11 and 12. The Auditor can
accept as correct the list of persons covered by Section 13(3) as given by the managing trustees.

2.2 Audit of Accounts w.r.t. the Claim for Deduction under Sections 35D and 35E

The conditions under which certain specified preliminary expenditure incurred before the commencement of business and once the business is commenced on expanding an industrial undertaking or in connection with setting up a new industrial unit can be amortized are stated in Section 35D of the Act. The manner in which deductions are allowed in respect of expenditure on any prospecting operations relating to certain specified minerals listed in the Seventh Schedule to the Act are stated in Section 35E of the Act. In respect of assessee other than a company or a co-operative society, these deductions are admissible only if the accounts for the year or years in which the above specified expenditure is incurred are audited by an "accountant" as defined in explanation below sub-section (2) of section 288 of the Income-tax Act, 1961 and the report of such audit is furnished by the assessee along with the return of income. Rule 6AB of the Income-tax Rules 1962 provides that the report of audit required to be furnished by the above-mentioned assessee under section 35D and 35E should be in Form No.3AE. While doing the audit, the auditor is expected to follow general principles of auditing as mentioned in Standards on Auditing.

3. TAX AUDIT UNDER SECTION 44AB

Section 44AB provides for the compulsory audit of accounts of certain persons carrying on business or profession. Section 44AB reads as under:

| “Audit of accounts of certain persons carrying on business or profession”. |
| Every person - |
| (a) carrying on business shall, if his total sales, turnover or gross receipts, as the case may be, in business exceed or exceeds one crore rupees in any previous year. |
| (b) carrying on profession shall, if his gross receipts, in profession exceed fifty lakhs rupees in any previous year, |
| (c) carrying on the business shall, if the profits and gains from the business are deemed to be the profits and gains of such person under section 44AE or section 44BB or section 44BBB as the |

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case may be, and he has claimed his income to be lower than the profits or gains so deemed to be the profits and gains of his business, as the case may be, in any previous year,

(d) carrying on the profession shall, if the profits and gains from the profession are deemed to be the profits and gains of such person under section 44ADA, and he has claimed such income to be lower than the profits and gains so deemed to be the profits and gains of his profession and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year, or

(e) carrying on the business shall, if the provisions of sub-section (4) of section 44AD are applicable in his case and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year, get his accounts of such previous year audited by an accountant before the specified date and furnish by that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.

[Note: Sub section (4) of section 44AD of the Income Tax Act, 1961 states that where an eligible assessee declares profit for any Previous Year in accordance with the provisions of this section 44AD and he declares profit for any of the 5 Assessment Years relevant to the Previous Year succeeding such Previous Year not in accordance with the provisions of sub-section (1) of section 44AD, he shall not be eligible to claim the benefit of the provisions of this section for 5 Assessment Years subsequent to the Assessment Year relevant to the Previous Year in which the profit has not been declared in accordance with the provisions of sub-section (1) of section 44AD.]

It may be noted that this section shall not apply to the person, who derives income of the nature referred to in section 44B or section 44BBA on and from the 1st day of April, 1985 or, as the case may be, the date on which the relevant section came into force, whichever is later.

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

### Applicability of Tax Audit Provisions

<table>
<thead>
<tr>
<th>Company</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>DB Pvt. Ltd. has total turnover of ₹ 125 lacs for the FY 2018-19.</td>
<td>✓ Section 44AD is not applicable to company assessee, hence Limit of ₹ 2 crore is not applicable to DB Pvt. Ltd and it has to conduct the Audit of Books of Accounts under section 44AB of the Act for the FY 2018-19 as turnover exceeds ₹ 1 crore.</td>
</tr>
<tr>
<td>ABC &amp; Co. (a partnership firm) engaged in trading of electronic goods having a turnover of ₹ 165 lacs for the FY 2018-19.</td>
<td>✓ Section 44AD is applicable to Partnership Firm. Thus, ABC &amp; Co. can declare the minimum profit @ 8% of the turnover as its turnover during the PY 2018-19 does not exceed ₹ 2</td>
</tr>
</tbody>
</table>
crores. If the firm do not opt for presumptive income scheme under section 44AD, it has to get books of accounts audited u/s 44AB of the Act.

Mr. Anand Khater, a Commission Agent has commission receipts of ₹ 137 lacs during the FY 2018-19.
✓ Though Section 44AD is applicable to an Individual, it is not applicable to Commission income. In the given case, since, Mr. Anand earns the commission income, he cannot take the benefit of section 44AD. His total turnover during the FY 2018-19 in respect of commission income exceeds ₹ 1 crore, he has to get his books of accounts audited u/s 44AB of the Act.

Mr. Vishal Raka, owning an Agency of Samsung Mobile for the city of Pune and makes the turnover of ₹ 87 lacs during the FY 2018-19.
✓ Though Section 44AD is applicable to an Individual, it is not applicable to Commission income. In the given case, since, Mr. Vishal earns the commission income, he cannot take the benefit of section 44AD. His total turnover during the FY 2018-19 in respect of commission income does not exceeds ₹ 1 crore, therefore, he need not to get his books of accounts audited u/s 44AB of the Act.

**Explanation** : For the purposes of this section,

(i) “accountant” shall have the same meaning as in the explanation below sub-section (2) of Section 288;

(ii) “specified date”, in relation to the accounts of the assessee of the previous year relevant to an assessment year, means the due date for furnishing the return of income under sub-section (1) of section 139.

The above section stipulates that every person carrying on business is required to get his accounts audited before the “specified date” by a chartered accountant, if the total sales turnover or gross receipts in the business in any previous year exceed ₹ 1 crore. A person carrying on a profession will also have to get his accounts audited before the “specified date” by a chartered accountant if his gross receipts in profession in any previous year exceed ₹ 50 lakhs w.e.f. A.Y. 2018-19.

**Clause (c) of Section 44AB**, provides that in the case of an assessee carrying on a business of the nature specified in sections 44AE, 44BB or 44BBB, tax audit will be required if he claims his income to be lower than the presumptive income deemed under those sections. Therefore, such assessees will be required to have a tax audit even if their sales, turnover or gross receipts do not exceed ₹ 100 lakhs (one crore rupees).

If a person is carrying on business(es), coming within the scope of sections 44AE, 44BB or 44BBB but he exercises his option given under these sections to get his accounts audited under Section 44AB, tax audit requirements would apply, in respect of such business(es) even if the turnover of such business(es) does not exceed ₹ 100 lakhs (one crore rupees).
In the case of a person carrying on businesses covered by sections 44AE, 44BB or 44BBB and opting for presumptive taxation, tax audit requirement would not apply in respect of such businesses, if such person is carrying on other business(es) not covered by presumptive taxation, tax audit requirements would apply in respect thereof if the turnover of such business(es), other than the business covered by presumptive taxation thereof, exceed ₹ 100 lakhs (one crore rupees).

The first proviso to section 44AB stipulates that the provisions of that section will not be applicable to a person who derives income of the nature referred to in sections 44B, or 44BBA. Where the assessee is carrying on any one or more of the businesses specified in section 44B or 44BBA referred to in the first proviso to section 44AB, the sales/turnover/gross receipts from such businesses shall not be included in the total sales/turnover/gross receipts for determining the applicability of section 44AB.

The report of such audit, duly signed and verified by the chartered accountant is required to be given in such form and setting forth such particulars as prescribed by the Board. Rule 6G provides that such audit report and particulars should be given in Form No. 3CA/3CB as may be applicable and the statement of particulars should be given in Form No.3CD.

A question may arise in the case of an assessee who is eligible to claim deductions under sections 80-I(A, 80-I(B, 80-I(C etc., as to whether, it will be necessary for him to get separate audit reports/certificates under these sections in addition to an audit report under Section 44AB. The requirement of section 44AB is a general requirement covering the overall position of the accounts of the assessee. This applies to the consolidated accounts of the assessee for the relevant previous year covering the results of all the units owned by the assessee whether situated at one place or at different places. If turnover of all the units put together exceeds prescribed limits, the assessee would be required to get a separate audit report/certificate under above said sections he wants to avail deduction under the respective sections. Therefore, it will be necessary for an assessee to get separate audit reports/certificates under above said sections in addition to an audit report, if any, required under section 44AB.

### Illustration

Concession Ltd. is engaged in the business of manufacturing of threads. The company recorded the turnover of ₹ 1.13 crore during the financial year 2018-19 before adjusting the following:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discount allowed in the Sales Invoice</td>
<td>₹ 8,20,000</td>
</tr>
<tr>
<td>Cash discount (other than allowed in Cash memo/ sales invoice)</td>
<td>₹ 9,20,000</td>
</tr>
<tr>
<td>Trade discount</td>
<td>₹ 2,90,000</td>
</tr>
<tr>
<td>Commission on Sales</td>
<td>₹ 6,00,000</td>
</tr>
<tr>
<td>Sales Return (F.Y. 2016-17)</td>
<td>₹ 1,60,000</td>
</tr>
<tr>
<td>Sale of Investment</td>
<td>₹ 6,60,000</td>
</tr>
</tbody>
</table>
You are required to ascertain the effective turnover to be considered for the prescribed limit of tax audit under the relevant Act and guide the company whether the provisions relating to tax audit applies.

Solution

The provisions relating to tax audit under section 44AB of the Income Tax Act, 1961 applies to every person carrying on business, if his total sales, turnover or gross receipts in business exceed the prescribed limit of ₹ 1 crore and to a person carrying on a profession, if his gross receipts from profession exceed the prescribed limit of ₹ 50 lakhs (w.e.f. A.Y. 2018-19) in any previous year. However, the term "sales", "turnover" or "gross receipts" are not defined in the Act, and therefore the meaning of the aforesaid terms has to be considered for the applicability of the section.

Some of the points for merit consideration in this regard as discussed in the Guidance Note issued by the Institute are given below-

(i) Discount allowed in the sales invoice will reduce the sale price and, therefore, the same can be deducted from the turnover.

(ii) Cash discount otherwise than that allowed in a cash memo/sales invoice is in the nature of a financing charge and is not related to turnover. Therefore, should not be deducted from the turnover.

(iii) Turnover discount is normally allowed to a customer if the sales made to him exceed a particular quantity. As per trade practice, it is in the nature of trade discount and should be deducted from the figure.

(iv) Special rebate allowed to a customer can be deducted from the sales if it is in the nature of trade discount. If it is in the nature of commission on sales, the same cannot be deducted from the figure of turnover.

(v) Price of goods returned should be deducted from the turnover even if the returns are from the sales made in the earlier year/s.

(vi) Sale proceeds of any shares, securities, debentures, etc., held as investment will not form part of turnover. However, if the shares, securities, debentures etc., are held as stock-in-trade, the sale proceeds thereof will form part of turnover.

In the given case, Concession Ltd. is engaged in manufacturing business. Therefore, the tax audit would be applicable if the turnover exceeds ₹ 1 crore during the financial year 2018-19. The calculation of effective turnover for the prescribed limit purpose, in accordance with abovementioned conditions, is given below:

Recorded turnover during the year ₹ 1,13,00,000

Less: (i) Discount allowed in the Sales Invoice ₹ 8,20,000
     (ii) Trade discount ₹ 2,90,000
     (iii) Sales Return ₹ 1,60,000

Effective turnover ₹ 1,00,30,000
**Conclusion:** The effective turnover of Concession Ltd. is Rupees one crore and thirty thousand only which is over and above the prescribed limit for tax audit under section 44AB of the Income Tax Act, 1961. Thus, the provisions related to tax audit are applicable to the company and is therefore liable for tax audit.

### 3.1 Tax Auditor

The term “accountant” has been defined in sub-clause (i) of Explanation to Section 44AB as under:

> “Accountant” shall have the same meaning as in the Explanation below sub-section (2) of Section 288”.

1. The above-mentioned explanation read as under-

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

<table>
<thead>
<tr>
<th>Case</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>(a)</td>
<td>in case of an assessee, being a company, the person who is not eligible for appointment as an auditor of the said company in accordance with the provisions of sub-section (3) of section 141 of the Companies Act, 2013 (18 of 2013); or</td>
</tr>
<tr>
<td>(b)</td>
<td>in any other case,—</td>
</tr>
<tr>
<td>(i)</td>
<td>the assessee himself or in case of the assessee, being a firm or association of persons or Hindu undivided family, any partner of the firm, or member of the association or the family;</td>
</tr>
<tr>
<td>(ii)</td>
<td>in case of the assessee, being a trust or institution, any person referred to in clauses (a), (b), (c) and (cc) of sub-section (3) of section 13;</td>
</tr>
<tr>
<td>(iii)</td>
<td>in case of any person other than persons referred to in sub-clauses (i) and (ii), the person who is competent to verify the return under section 139 in accordance with the provisions of section 140;</td>
</tr>
<tr>
<td>(iv)</td>
<td>any relative of any of the persons referred to in sub-clauses (i), (ii) and (iii);</td>
</tr>
<tr>
<td>(v)</td>
<td>an officer or employee of the assessee;</td>
</tr>
<tr>
<td>(vi)</td>
<td>an individual who is a partner, or who is in the employment, of an officer or employee of the assessee;</td>
</tr>
<tr>
<td>(vii)</td>
<td>an individual who, or his relative or partner—</td>
</tr>
<tr>
<td>(I)</td>
<td>is holding any security of, or interest in, the assessee:</td>
</tr>
<tr>
<td>Provided that the relative may hold security or interest in the assessee of the face value not exceeding one hundred thousand rupees;</td>
<td></td>
</tr>
</tbody>
</table>
(II) is indebted to the assessee:

Provided that the relative may be indebted to the assessee for an amount not exceeding one hundred thousand rupees;

(III) has given a guarantee or provided any security in connection with the indebtedness of any third person to the assessee:

Provided that the relative may give guarantee or provide any security in connection with the indebtedness of any third person to the assessee for an amount not exceeding one hundred thousand rupees;

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

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

2. The proviso to section 44AB lays down that where the accounts of an assessee are required to be audited by or under any other law, it shall be sufficient compliance with the provisions of this section, if such person gets the accounts of such business or profession audited under such other law before the specified date and furnishes by that date the report by an ‘accountant’ as required under section 44AB.

3. Though the section refers to the accounts being audited by an accountant, which means a chartered accountant as defined above, the audit can also be done by a firm of chartered accountants. This has been a recognised practice under the Act. In such a case, it would be necessary to state the name of the partner who has signed the audit report on behalf of the firm. The member signing the report as a partner of a firm or in his individual capacity should give his membership number while registering himself in the e-filing portal.

4. Section 44AB stipulates that only Chartered Accountants should perform the tax audit. This section does not stipulate that only the statutory auditor appointed under the Companies Act or other similar Statute should perform the tax audit. As such the tax audit can be conducted either by the statutory auditor or by any other chartered accountant in full time practice.

5. Tax audit under section 44AB being a recurring audit assignment, for expressing professional opinion on the financial statements and the particulars, the member accepting the assignment should communicate with the member who had done tax audit in the earlier year as provided in the Chartered Accountants Act. When making the enquiry from the retiring auditor, the member accepting the assignment should find out whether there are any professional or other reasons why he should not accept the appointment. The professional reasons for not accepting the appointment include:

- Non-compliance of the provisions of sections 224 and 225 of the Companies Act as mentioned in Code of Ethics issued by ICAI under Clause (9) of Part I of First Schedule to Chartered Accountants Act, 1949. Sections 224 and 225 have been replaced with
section 139/142 and section 140 respectively in Companies Act, 2013.

- Non-payment of undisputed audit fees by auditees other than in case of sick units for carrying out the statutory audit under the Companies Act or various other statutes.
- Issuance of qualified report.

6. The appointment of the auditor for tax audit in the case of a company need not be made at the general meeting of the members. It can be made by the Board of Directors or even by any officer, if so authorised by the Board in this behalf. The appointment in the case of a firm or a proprietary concern can be made by a partner or the proprietor or a person authorised by the assessee. It is possible for the assessee to appoint two or more chartered accountants as joint auditors for carrying out the tax audit, in which case, the audit report will have to be signed by all the chartered accountants. In case of disagreement, they can give their reports separately.

7. The tax auditor should obtain from the assessee a letter of appointment for conducting the audit as mentioned in section 44AB. It is advisable that such an appointment letter should be signed by the person competent to sign the return of income in terms of the provisions of section 140. It would also be useful if the letter affirms that no other auditor was appointed to conduct the tax audit for the year for which the appointment is being made. The letter may also give the name and address of the tax auditor for the previous year, wherever relevant. This would give the necessary information to the incoming tax auditor to enable him to communicate with the previous auditor. The letter of appointment should also specify the remuneration of the tax auditor. SA 210 – “Agreeing the Terms of Audit Engagement” issued by the ICAI requires that the auditor to agree with the terms of audit engagement with management or those charged with governance as appropriate. The agreed terms would need to be recorded in an audit engagement letter or other suitable form of written agreement.

8. The chartered accountants should charge reasonable fees depending upon the responsibility involved under the revised forms and taking into consideration the work involved in tax audit assignment which has increased considerably consequent to the revision of the forms. It is necessary that members of the profession should also maintain reasonable standards of professional fees.

9. A chartered accountant who is responsible for writing or the maintenance of the books of account of the assessee should not audit such accounts. This principle will apply to the partner of such a member as well as to the firm in which he is a partner. In view of this, a chartered accountant who is responsible for writing or the maintenance of the books of account or his partner or the firm in which he is a partner should not accept tax audit assignment under section 44AB in the case of such an assessee.

10. The audit of accounts of a professional firm of chartered accountants, under section 44AB cannot be conducted by any partner or employee of such firm.
11. A chartered accountant/firm of chartered accountants, who is appointed as tax consultant of the assessee, can conduct tax audit under section 44AB. But an internal auditor of the assessee cannot conduct tax audit if he is an employee of the assessee. The Council of ICAI has decided that an internal auditor of an assessee, whether working with the organisation or independently practicing chartered accountant or a firm of chartered accountants, cannot be appointed as his tax auditor.

12. A question may arise whether an assessee can remove a tax auditor appointed under section 44AB. The answer depends upon the facts and circumstances of the case. It is, however, possible for the management to remove a tax auditor where there are valid grounds for such removal. This may arise where the tax auditor has delayed the submission of audit report under section 44AB for an unreasonable period and if it is found that there is no possibility of getting the audit report uploaded before the specified date. In such cases, the management may be justified in removing the tax auditor. However, the tax auditor cannot be removed on the ground that he has given an adverse audit report or the assessee has apprehension that the tax auditor is likely to give an adverse audit report. If there is any unjustified removal of tax auditors, the Ethical Standards Board constituted by the Institute can intervene in such cases. No other chartered accountant should accept the audit assignment if the removal of his predecessor is not on valid grounds.

13. Before accepting a tax audit, the chartered accountant should take into consideration the ceiling on tax audit assignments fixed under the Notification dated 13th January, 1989, issued by the ICAI. In view of the said Notification, a member of the Institute in practice, shall be deemed to be guilty of professional misconduct if he accepts in a financial year more than 60-tax audit assignments or such other limit as may be prescribed by ICAI from time to time under section 44AB, whether in respect of a person whose accounts have been audited under any other law or a person who carries on business or profession but who is not required by or under any other law to get his accounts audited. Further, as per a Council decision, audits of accounts of persons carrying on business covered by sections 44AE, 44BB or 44BBB is not included in the aforesaid limit.

As per Chapter VI of Council General Guidelines, 2008 that in case of firm of Chartered Accountants in practice, specified number of tax audit assignments means 60 tax audit assignments per partner of the firm, in a financial year. Therefore, if there are 10 partners in a firm of Chartered Accountants in practice, then all the partners of the firm can collectively sign 600 tax audit reports. This maximum limit of 600 tax audit assignments may be distributed between the partners in any manner whatsoever. For instance, 1 partner can individually sign 600 tax audit reports in case remaining 9 partners are not signing any tax audit report.

14. The audit of head office and branch offices of the assessee shall be regarded as one tax audit assignment.
15. The Council has issued a Guideline which states that a member of the Institute in practice shall be deemed to be guilty of professional misconduct, if he accepts the appointment as statutory auditor of Public Sector Undertaking/Government Company/Listed Company and other Public Company having turnover of ₹ 50 crores or more in a year and accepts any other work or assignment or service in regard to the same undertaking/company on a remuneration which in total exceeds the fee payable for carrying out the statutory audit of the same undertaking/company.

16. A question may arise in the case of a public sector company or any other company where the statutory auditor has not been appointed by the authorities concerned as to whether the tax auditor appointed under section 44AB can complete his audit without waiting for statutory audit report on the accounts audited by the statutory auditors. It may be noted that Form No. 3CA requires the tax auditor to enclose a copy of the audit report conducted by the statutory auditor or the auditor of the financial statements as the case may be. Where a statutory auditor has not been appointed by the authorities concerned or where the report of the statutory auditor is not available for whatever reasons, it will be possible for the tax auditor to give his report in Form No. 3CB and to certify the relevant particulars in Form No.3CD. This is particularly important in those cases where the assessee concerned has suffered losses in the relevant accounting year. It may, however, be noted that the tax auditor in such cases will have to conduct the financial audit as well in order to enable him to certify whether or not the accounts reported upon by him give a true and fair view of the state of affairs of the assessee whose accounts are audited by him under section 44AB.

3.1.1 Specified Date and Tax Audit

As per the recent developments, the tax audit report is required to be uploaded using digital signature of the tax auditor. A question may arise whether a tax auditor appointed under section 44AB can be held responsible if he does not complete the audit and if the tax audit report is not uploaded before the specified date. Answer to this question will depend on the facts and circumstances of the case. Normally, it is the professional duty of the chartered accountant to ensure that the audit accepted by him is completed before the due date. If there is any unreasonable delay on his part, 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.

It is also advisable to keep some communication in this regard in case of delay from the client such as e-mails, postal communication etc.

3.1.2 Penalty for Not Getting the Accounts Audited as Required u/s 44AB

According to section 271B, if any person who is required to comply with section 44AB fails to get his accounts audited in respect of any year or years as required under section 44AB, the Assessing Officer may impose a penalty. The penalty shall be lower of the following amounts:
(a) 0.5% of the total sales, turnover or gross receipts, as the case may be, in business, or of the gross receipts in profession, in such year or years.

(b) ₹ 1,50,000.

However, according to section 273B, no penalty shall be imposed if reasonable cause for such failure is proved.


Under section 145(1), income chargeable under the heads “Profits and gains of business or profession” or “Income from other sources” shall be computed in accordance with either the cash or mercantile system of accounting regularly employed by the assessee.

Section 145(2) empowers the Central Government to notify in the Official Gazette from time to time, income computation and disclosure standards to be followed by any class of assesses or in respect of any class of income.

Accordingly, the Central Government has, in exercise of the powers conferred under section 145(2), notified ten income computation and disclosure standards (ICDSs) to be followed by all assesses (other than an individual or a HUF who is not required to get his accounts of one previous year audited in accordance with the provisions of section 44AB), following the mercantile system of accounting, for the purposes of computation of income chargeable to income-tax under the head “Profit and gains of business or profession” or “Income from other sources”. from the A.Y. 2017-18.

All the notified ICDSs are applicable for computation of income chargeable under the head “Profits and gains of business or profession” or “Income from other sources” and not for the purpose of maintenance of books of accounts. In the case of conflict between the provisions of the Income-tax Act, 1961 and the notified ICDSs, the provisions of the Act shall prevail to that extent.

<table>
<thead>
<tr>
<th>The Central Government has prescribed 10 Income Computation and Disclosure Standards (ICDSs) as under:</th>
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</thead>
<tbody>
<tr>
<td>A. ICDS I relating to Accounting Policies.</td>
</tr>
<tr>
<td>B. ICDS II relating to Valuation of Inventories</td>
</tr>
<tr>
<td>C. ICDS III relating to Construction Contracts.</td>
</tr>
<tr>
<td>D. ICDS IV relating to Revenue Recognition.</td>
</tr>
<tr>
<td>E. ICDS V relating to Tangible Fixed Assets.</td>
</tr>
<tr>
<td>F. ICDS VI relating to the Effects of Changes in Foreign Exchange Rates.</td>
</tr>
<tr>
<td>G. ICDS VII relating to Government Grants.</td>
</tr>
<tr>
<td>H. ICDS VIII relating to Securities.</td>
</tr>
</tbody>
</table>
I. ICDS IX relating to Borrowing Costs.

J. ICDS X relating to Provisions, Contingent Liabilities and Contingent Assets.

The above ICDSs are to be followed by all assesses (other than an individual or a HUF who is not required to get his accounts of one previous year audited in accordance with the provisions of section 44AB following mercantile system of accounting). Therefore, it is clear that those assessees who are following cash system of accounting need not follow the ICDSs notified above.

4. AUDIT PROCEDURES

1. SA 210, “Agreeing the Terms of Audit Engagements” requires an auditor to establish whether the pre-conditions for an audit are present so as to accept or continue an audit engagement. As per para 6(b) (iii) the auditor is required to obtain agreement of management that it acknowledges and understands its responsibilities to provide the auditor with:

   (a) access to all information of which the management is aware that is relevant to the preparation of the financial statements such as records, documentation and other matters,

   (b) additional information that the auditor may request the management for the purpose of the audit and

   (c) unrestricted access to persons within the entity from whom the auditor determines it necessary to obtain audit evidence.

2. The audit report given under section 44AB is to assist the income-tax department to assess the correct income of the assessee. In order that the tax auditor may be in a position to explain any question which may arise later on, it is necessary that he should keep necessary working papers about the evidence on which he has relied upon while conducting the audit and also maintain all his necessary working papers.

   Such working papers should include his notes on the following, amongst other matters:

   (a) work done while conducting the audit and by whom;

   (b) explanations and information given to him during the course of the audit and by whom;

   (c) decision on the various points taken;

   (d) the judicial pronouncements relied upon by him while making the audit report; and

   (e) certificates issued by the client/management representation letter.
Where the assessee has been subjected to an internal audit and the tax auditor decides to use the work of the internal auditor for the purpose of the tax audit under section 44AB, the latter’s procedures would be guided by the principles laid down in Standard on Auditing (SA) 610, Using the Work of Internal Auditors.

3. The tax auditor may be required to apply reasonable tests on the total information prepared by the assessee by applying test checks, analytical procedures etc. While the entity may have to prepare the details for the entire year, the tax auditor may have to ensure that no items have been omitted in the information furnished and a reasonable test check would reveal whether or not the information furnished is correct. The extent of check undertaken would have to be indicated by the tax auditor in his working papers and audit notes. The tax auditor would be well advised to so design his tax audit programme as would reveal the extent of checking and to ensure adequate documentation in support of the information being certified.

5. AUDIT REPORT

Section 44AB requires the tax auditor to submit the audit report in the prescribed form and setting forth the prescribed particulars. Sub-rule 1 of rule 6G provides that the report of audit of accounts of a person required to be furnished under Section 44AB shall –

a) in the case of a person who carries on business or profession and who is required by or under any other law to get his accounts audited, be in Form No. 3CA;

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

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

<table>
<thead>
<tr>
<th>It may be noted that the audit report in Form No.3CB is in two parts.</th>
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<tbody>
<tr>
<td>The first part requires the tax auditor to give his opinion as to whether or not the accounts audited by him give a true and fair view:</td>
</tr>
<tr>
<td>(i) in the case of the balance sheet, of the state of affairs as at the last date of the accounting year.</td>
</tr>
<tr>
<td>(ii) in the case of the profit and loss account, of the profit or loss of the assessee for the relevant accounting year.</td>
</tr>
<tr>
<td>The second part of the report states that the statement of particulars required to be furnished under section 44AB is annexed to the audit report in Form No. 3CD.</td>
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</table>
The tax auditor is required to give his opinion whether the prescribed particulars furnished by the assessee are true and correct subject to observations and qualifications, if any.

In paragraph 3 of Form No. 3CB the auditor has to report that the financial statements audited by him give a ‘true’ and fair view. The requirement in paragraph 3 of Form No. 3CA and paragraph 5 of Form No. 3CB relating to particulars in Form No. 3CD is that the auditor should report that these particulars in Form No. 3CD are "true and correct". The terminology "true and fair" is widely understood though not defined even under the Companies Act, 2013. On the other hand, the words "true and correct" lay emphasis on factual accuracy of the information. In this context reference is invited to AS-1 and AS(IT)-1 relating to disclosure of accounting policies.

These standards recognise that the major considerations governing the selection and application of accounting policies are (i) prudence, (ii) substance over form and (iii) materiality. Therefore, while giving particulars in Form No. 3CD these aspects should be kept in view. In particular, considering the nature of particulars to be given in Form No. 3CD, the aspect of materiality should be considered. In other words, particulars should be given in the respect of material items and the auditors should ensure factual accuracy relating to these particulars. In the case of a person whose accounts of the business or profession have been audited under any other law, it is not required for the tax auditor appointed under section 44AB to give his opinion, as to whether or not the accounts give a true and fair view as indicated herein above. It would only be necessary for him to annex a copy of the audited accounts as well as a copy of the audit report given by the statutory auditor with his report in Form No. 3CA along with Form No. 3CD.

In the case of a person who carries on business and also renders professional services but who is not required by or under any other law to get his accounts audited, report should be given in Form No. 3CB. The statement of particulars should be given in Form No. 3CD.

In the case of "person" having their accounting year which is different from the financial year, accounts of the financial year are required to be prepared and audited. The audit report shall be in Form 3CB.

5.1 Form No. 3CA

5.1.1 Format of Form No. 3CA

FORM NO. 3CA

[See rule 6G(1)(a)]

Audit report under section 44AB of the Income-tax Act, 1961,
in a case where the accounts of the business or profession of a person
have been audited under any other law

1. *I/we report that the statutory audit of M/s. ............................................................... (Name and address of the assessee with Permanent Account Number) was conducted by me/us/M/s.
1. In pursuance of the provisions of the Act, and I/we annex hereto a copy of my/our/their audit report dated ........................., along with a copy of each of:
(a) the audited profit and loss account/income and expenditure account for the period beginning from ....................... to ending on ......................
(b) the audited balance sheet as at, ....................; and
(c) documents declared by the said Act to be part of, or annexed to, the profit and loss account/income and expenditure account and balance sheet.

2. The statement of particulars required to be furnished under section 44AB is annexed herewith in Form No. 3CD.

3. In my/our opinion and to the best of my/our information and according to examination of books of account including other relevant documents and explanations given to me/us, the particulars given in the said Form No.3 CD are true and correct subject to the following observations/qualifications, if any:
   a. .................................................................
   b. .................................................................
   c. .................................................................

   *(Signature and stamp/Seal of the signatory)*

Place: ............  Name of the signatory .................
Date: .............  Full address .........................

Notes:
1. *Delete whichever is not applicable.
2. This report has to be signed by a person eligible to sign the report as per the provisions of section 44AB of the Income-tax Act, 1961.
3. Where any of the requirements in this Form is answered in the negative or with qualification, give reasons therefor.
4. The person who signs this audit report shall indicate reference of his membership number/certificate of practice/authority under which he is entitled to sign this report.
5.1.2 General Discussion on Contents of Form No. 3CA

1. This form is to be used in a case where the accounts of the business or profession of a person have been audited under any other law. The first part of the report refers to the fact that the statutory audit of the assessee was conducted by a chartered accountant or any other auditor in pursuance of the provisions of the relevant Act, and the copy of the audit report along with the audited profit and loss account and balance sheet and the documents declared by the relevant Act to be part of or annexed to the profit and loss account and balance sheet, are annexed to the report in Form No. 3CA. In a case where the tax auditor carrying out the audit under section 44AB is different from the statutory auditor, a reference should be made to the name of such statutory auditor. In case the statutory auditor is carrying out the audit under section 44AB, the fact that he has carried out the statutory audit under the relevant Act should be stated. Attention of the members in this context is invited to SA 600 “Using the work of Another Auditor.

2. Statement of particulars required to be furnished under section 44AB is annexed with the particulars in Form No. 3CD. The tax auditor has to further state that, in his opinion and to the best of his information and according to examination of books of account including other relevant documents and explanations given to him, the particulars given in the said Form No. 3CD and the annexure thereto are true and correct subject to the observations/qualifications, if any.

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

4. Where any of the requirements in this form is answered in negative or with qualification, the report shall state the reasons thereof. 5. It is possible that in the case of a person whose accounts of the business or profession have been audited under any other law, which has branches at various places, the branch accounts might have been audited by branch auditors under the statute. If the audit under section 44AB is also carried out by the same branch auditors or other chartered accountants, they should submit the report in Form No. 3CA to the management or the principal tax auditor appointed for the head office under Section 44AB. Attention in this regard is drawn to SA 600, “Using the Work of Another Auditor” which discusses the procedures in this regard as well as the principal tax auditor's responsibility in relation to his use of the work of the branch auditor. The principal tax auditor should submit his consolidated report on the registered office/head office and branch accounts and report in his tax audit report as his observation in paragraph 3 of Form No. 3CA as under:

"I/We have taken into consideration the audit report and the audited statements of accounts, and particulars received from the auditors, duly appointed under the relevant law, of the branches not audited by me/us".

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5. The person, who signs this audit report, shall indicate reference of his membership No./certificate of practice number/authority under which he is entitled to sign this report.

6. An assessee may have one or more branches outside India. The accounts of such branches are normally audited by the professional accountants overseas. The results of such branches are also incorporated in the consolidated accounts prepared in this country. In the case of foreign branches, the relevant information in respect of such branches as is required by Form No. 3CD, may be obtained by the tax auditor in India from the assessee who should obtain the same from the overseas auditor who had audited the accounts of such foreign branches. The tax auditor in India while certifying the information in Form No. 3CD may rely upon the information obtained by him from the overseas auditor and while submitting his consolidated report in Form No. 3CD, he should specifically point out the following in his audit report in paragraph 3 of Form No. 3CA as his observation:

“I/We have taken into consideration the audit report and the audited statements of accounts, and particulars received from the auditors, appointed under the relevant law, of the overseas branches not audited by me/us”.

If the assessee is unable to obtain relevant information in respect of the overseas branches duly certified by the overseas auditor, the relevant facts should be suitably disclosed and reported upon.

7. Where the tax auditor is unable to obtain the required information in respect of branches situated in India or outside India then the fact should be suitably disclosed along with its impact on the Auditor’s opinion on the particulars furnished in Form No. 3CD, as an observation in clause (3) of Form No. 3CA. Reference is drawn to SA 705 “Modifications to the opinion in the Independent Auditor’s report”.

5.2 Form No. 3CB

5.2.1 Format of Form No. 3CB

FORM NO. 3CB
[See rule 6G(1)(b)]
Audit report under section 44AB of the Income-tax Act 1961,
in the case of a person referred to in clause (b) of sub-rule (1) of rule 6G

1. *I/we have examined the balance sheet as on, .............................., and the *profit and loss account/income and expenditure account for the period beginning from ..............................................to ending on .............................................., attached herewith, of ..............................................(Name), .............................................. (Address ) , .............................................. (Permanent Account Number).
2. *I/we certify that the balance sheet and the *profit and loss/income and expenditure account are in agreement with the books of account maintained at the head office at …………………….and ** ……………………branches.

3. (a) *I/we report the following observations/comments/discrepancies/inconsistencies; if any:
   
   (b) Subject to above, -
   
   (A) *I/we have obtained all the information and explanations which, to the best of *my/our knowledge and belief, were necessary for the purpose of the audit.
   
   (B) In *my/our opinion, proper books of account have been kept by the head office and branches of the assessee so far as appears from *my/our examination of the books.
   
   (C) In *my/our opinion and to the best of *my/our information and according to the explanations given to *me/us, the said accounts, read with notes thereon, if any, give a true and fair view: -
   
   (i) in the case of the balance sheet, of the state of the affairs of the assessee as at 31st March; and
   
   (ii) in the case of the *profit and loss account/income and expenditure account of the *profit/loss or *surplus/deficit of the assessee for the year ended on that date.

4. The statement of particulars required to be furnished under section 44AB is annexed herewith in Form No.3CD.

5. 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 subject to following observations/qualifications, if any:

   a. ..............................................................................................................................
   
   b. ..............................................................................................................................
   
   c. ..............................................................................................................................

   **(Signature and stamp/Seal of the signatory)

Place: ............

Name of the signatory

Date: ............

Full address  ............
Notes:
1. *Delete whichever is not applicable.
2. **Mention the total number of branches.
3. ***This report has to be signed by person eligible to sign the report as per the provisions of section 44AB of the Income-tax Act, 1961.
4. The person, who signs this audit report, shall indicate reference of his membership number/certificate of practice number/authority under which he is entitled to sign this report.

5.2.2 General Discussion on Contents of Form No. 3CB

1. In the case of a person who carries on business or profession but who is not required by or under any other law to get his accounts audited, the audit report has to be given in Form No. 3CB. Form No. 3CB consists of five paragraphs.

2. The tax auditor has to state whether he has examined the balance sheet as on a particular relevant date and the profit and loss account/income and expenditure account for that period. Further, such a balance sheet and the profit and loss account must be attached with the audit report.

3. The tax auditor has to certify that the balance sheet and the profit and loss account/income and expenditure account are in agreement with the books of account maintained at the head office and branches. Also, he has to mention the total number of branches.

4. He has to report his observations, comments, discrepancies or inconsistencies, if any. Subject to the above observations, comments, discrepancies, inconsistencies he has to state whether:

<p>| | |</p>
<table>
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</thead>
<tbody>
<tr>
<td>(a)</td>
<td>he has obtained all the information and explanations which, to the best of his knowledge and belief, were necessary for the purposes of the audit;</td>
</tr>
<tr>
<td>(b)</td>
<td>in his opinion proper books of account have been kept by the head office and branches of the assessee so far as appears from his examination of the books;</td>
</tr>
<tr>
<td>(c)</td>
<td>in his opinion and to the best of his information and according to the explanations given to him the said accounts, read with notes thereon, if any, give a true and fair view;</td>
</tr>
<tr>
<td></td>
<td>(i) in the case of the balance sheet of the state of the affairs of the assessee as at 31st March, ______ and</td>
</tr>
<tr>
<td></td>
<td>(ii) in the case of the profit and loss account/income and expenditure account of the profit/loss or surplus/deficit of the assessee for the year ended on that date.</td>
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</tbody>
</table>

5. Under clause (a) of paragraph 3 of Form No. 3CB, the tax auditor has to report his "observations/comments/ discrepancies/ inconsistencies," if any. The expression “Subject to
above” appearing in clause (b) makes it clear that such observations/comments/discrepancies/inconsistencies which are of qualificatory nature relate to necessary information and explanations for the purposes of the audit or the keeping of proper books of accounts or the true and fair view of the financial statements, respectively to be reported on in paragraphs (A), (B) and (C) under clause (b) of paragraph 3. While reporting on clause (a) of paragraph 3 of Form No. 3CB the tax auditor should report only such of those observations/comments/discrepancies/inconsistencies which are of qualificatory nature which affect his reporting about obtaining all the information and explanations which were necessary for the purposes of the audit, about the keeping of proper books of account by the head office and branches of the assessee and about the true and fair view of the financial statements. Further, only such observations/comments/discrepancies/inconsistencies which are of a qualificatory nature should be mentioned under clause (a). Any other observations/comments/discrepancies/inconsistencies, which do not affect the reporting on the matters specified above may form part of the notes to accounts forming part of the accounts. In case the tax auditor has no observations/comments/discrepancies/inconsistencies to report which are of qualificatory nature, “NIL” should be reported in this part of paragraph 3. The tax auditor may then give his report as required by sub-paragraphs (A), (B), and (C) of paragraph 3 and paragraph 4.

6. Paragraph 4 of Form No. 3CB provides that the prescribed particulars are furnished in Form No. 3CD annexed to the report. Paragraph 5 of Form No. 3CB requires the auditor to report whether in his opinion and to the best of his information and according to the explanations given to him, the particulars given in Form No. 3CD are true and correct subject to observations/qualifications, if any.

7. If a person who carries on business or profession but who is not required by or under any other law to get his accounts audited, has branches and separate accounts are maintained at the branches, the assessee can request the tax auditor appointed under section 44AB to audit the head office and branch accounts. In the alternative, the assessee can appoint separate tax auditors for branches. The branch tax auditor in such a case will have to give an audit report in Form No. 3CB to the management or the tax auditor appointed for the audit of head office accounts. 8. If the tax auditor is called upon to give his report only in respect of one or more businesses carried on by the assessee and the books of accounts of the other businesses are not produced as the same are not required to be audited under the Act, the tax auditor should mention the fact that audit has not been conducted of those businesses whose books of account had not been produced. However, if the financial statements include, inter alia, the results of such business for which books of account have not been produced, the auditor should qualify his report in Form No. 3CB.

5.3 Form No. 3CD

The statement of particulars given in Form No. 3CD as annexure to the audit report contains forty-four clauses. The tax auditor has to report whether the particulars are true and correct. This Form is
12.26 ADVANCED AUDITING AND PROFESSIONAL ETHICS

a statement of particulars required to be furnished under section 44AB. The same is to be annexed to the reports in Forms No. 3CA and 3CB in respect of a person who carries on business or profession and whose accounts have been audited under any other law and in respect of person who carries on business or profession but who is not required by or under any other law to get his accounts audited respectively.

1. The tax auditor should obtain from the assessee, the statement of particulars in Form No. 3CD duly authenticated by him. It would be advisable for the assessee to take into consideration the following general principles while preparing the statement of particulars:

(a) He can rely upon the judicial pronouncements while taking any particular view about inclusion or exclusion of any items in the particulars to be furnished under any of the clauses specified in Form No. 3CD.

(b) If there is a conflict of judicial opinion on any particular issue, he may refer to the view which has been followed while giving the particulars under any specified clause.

(c) The AS, Guidance Notes, SA issued by the Institute from time to time should be followed.

2. While furnishing the particulars in Form No. 3CD it would be advisable for the tax auditor to consider the following:

i. If a particular item of income/expenditure is covered in more than one of the specified clauses in the statement of particulars, care should be taken to make a suitable cross reference to such items at the appropriate places.

ii. If there is any difference in the opinion of the tax auditor and that of the assessee in respect of any information furnished in Form No. 3CD, the tax auditor should state both the viewpoints and also the relevant information in order to enable the tax authority to take a decision in the matter.

iii. If any particular clause in Form No. 3CD is not applicable, he should state that the same is not applicable.

iv. In computing the allowance or disallowance, he should keep in view the law applicable in the relevant year, even though the form of audit report may not have been amended to bring it in conformity with the amended law.

v. In case the prescribed particulars are given in part or piecemeal to the tax auditor or relevant form is incomplete and the assessee does not give the information against all or any of the clauses, the auditor should not withhold the entire audit report. In such a case, he can qualify his report on matters in respect of which information is not furnished to him. In the absence of relevant information, the tax auditor would have no option but to state in his report that the relevant information has not been furnished by the assessee.

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vi. The information in Form No. 3CD should be based on the books of accounts, records, documents, information and explanations made available to the tax auditor for his examination.

vii. In case the auditor relies on a judicial pronouncement, he may mention the fact as his observations in clause (3) of Form No. 3CA or clause (5) provided in Form No. 3CB, as the case may be.

Clauses given in Part-A and Part-B of Form No 3CD are discussed below and after every clause audit procedure to be followed for particulars to be furnished in Form No. 3CD is discussed. It is discussed in detailed manner to get practical exposure also.

- **Clause (1), Name Clause**: Under this clause the name of the assessee whose accounts are being audited under section 44AB should be given.

  **Audit checklist for practical understanding**:

  - In the case of an existing assessee, name under which return furnished in earlier years should be given. This name should be the same under which PAN is obtained.
  - In the case of a new assessee, give the name in which PAN has been obtained.
  - In case of proprietorship firm give name and style in which business is carried on also mentioning the name of the proprietor.
  - In case of firm, give name of the firm.
  - In case of company, give name in which the company is registered.

- **Clause (2), Address Clause**: The address to be mentioned under clause (2) should be the same as has been communicated by the assessee to the Income-tax Department for assessment purposes as on the date of signing of the audit report.
Audit checklist for practical understanding:

- **Clause (3), Permanent Account Number of the Assessee:** The permanent account number (PAN) allotted to the assessee should be indicated.

Audit checklist for practical understanding:

- **Clause (4), Details as to Indirect Tax Registration:** Part A of Form No. 3CD generally requires the auditor to ensure whether the assessee is liable to pay indirect tax like excise duty, service tax, sales tax, goods and service tax, custom duty, etc. If yes, please furnish the registration number or GST number or any other identification number allotted for the same. Thus, the auditor is primarily required to furnish the details of registration numbers as provided to him by the assessee. The reporting is required to be done in the manner or format specified by the e-filing utility in this context.

Audit checklist for practical understanding:

- **Obtain from the assessee its Permanent Account Number and ensure that the same is correct.**
- **Check the same from the PAN Card allotted to the assessee.**
- **Auditor should keep a copy of the PAN card in his permanent file relating to auditee.**

- **Ask the assessee whether he is liable to pay indirect tax like excise duty, service tax, VAT, customs duty, (or GST) etc.**
- **Scrutinize the books of account to check whether the assessee is liable to pay indirect taxes like excise duty, service tax, VAT, customs duty, (or GST) etc.**
(a) Obtain from the assessee representation indicating various indirect tax laws applicable to him.

(b) Obtain copy of registration certificates issued by GST/Excise/VAT/Service Tax Authorities.

(c) If the assessee is liable to pay any indirect tax but he has not got himself registered then bring out this fact as a qualification/observation in the main audit report in Form No. 3CA/3CB.

**Illustration:** V Pvt Ltd is engaged in the business of providing corporate/professional training programs. It has an annual turnover of INR 69 crores. The company is subject to tax audit for which the work has been started by the tax auditor. For the financial year ended 31 March 2018, the company applied for GST registration for 2 new locations for which registration certificates have not yet been received by the company. However, the registration number is available on the portal of relevant authority which can be verified by checking the details of the company. In this case what should be the audit procedures to verify this registration number?

**Solution:** The tax auditor should verify the registration number for the locations for which registration certificates have not been received from online portal of the relevant authority. The auditor should also ensure that the details furnished while checking the registration number pertains to the company only. If the company has filed any returns for these locations, the auditor should enquire for the same from the management and should check those returns to verify the correctness of the registration numbers. In addition, the auditor should also obtain specific representation in respect of this point from the management.

- **Clause (5), Status of the Assessee:** The status of the assessee is to be mentioned. Obviously, this refers to the different classes of assessees included in the definition of “person” in section 2 (31) of the Act, namely, individual, Hindu undivided family, company, firm, an association of persons or a body of individuals whether incorporated or not, a local authority or artificial juridical person.

  **Audit checklist for practical understanding:**

  Ensure that the status is quoted as per section 2(31) of the Act. It should not be confused with the residential status of the assessee. Further, in case of a proprietorship concern status shall be quoted as individual.

- **Clause (6), Previous Year:** The period of the previous year has to be stated. Since the previous year under the Act now uniformly begins on 1st April and ends on 31st March, the relevant previous year should be mentioned. In case of amalgamations, demergers, reconstitution, new business, closure of existing business etc. the date of beginning/ ending of the previous year may be different, the auditor may accordingly, mention the relevant date of beginning and ending of the previous year in this clause.
Audit checklist for practical understanding:

Previous year shall be quoted as per Income Tax Act i.e. 1-4-2017 to 31-3-2018 and not be confused with the accounting year. For assessment year 2019-20, previous year is 2018-19.

- **Clause (7), Assessment Year:** The assessment year relevant to the previous year for which the accounts are being audited should be mentioned i.e. for previous year 2017-18 assessment year would be 2018-19.

- **Clause (8), Under which Clause of Section 44AB the audit has been conducted:** The auditor is required to mention the relevant clause of section 44AB under which the audit has been conducted.

<table>
<thead>
<tr>
<th>Tax audit under section 44AB of the Income Tax Act, 1961</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carrying on business, if total sales, turnover or gross receipts in business exceed ₹ 1 crore in any previous year [clause (a) of section 44AB]</td>
</tr>
<tr>
<td>Carrying on profession, if gross receipts in profession exceed ₹ 50 lakh in any previous year [clause (b) of section 44AB]</td>
</tr>
<tr>
<td>Carrying on the business, where the profits and gains from the business are deemed to be the profits and gains under section 44AE, or section 44BB or section 44BBB and claiming such income to be lower than such deemed profits and gains, in any previous year [clause (c) of section 44AB]</td>
</tr>
<tr>
<td>Carrying on the business, where the profits and gains from the business are deemed to be the profits and gains under section 44AD and claimed such income to be lower than such deemed profits and gains and income exceeds the maximum amount which is not chargeable to income-tax in any previous year [clause (d) of section 44AB]</td>
</tr>
</tbody>
</table>

Diagram representing various clauses of section 44AB of the Income Tax Act, 1961 under which a tax audit is required to be conducted

Audit checklist for practical understanding:

Ascertain the relevant clause of section 44AB applicable to the assessee and indicate here.

- **Clause 9(a):** If firm or Association of Persons, indicate names of partners/members and their profit sharing ratios.

- **Clause 9(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.
Explanation for Clauses 9(a) and 9(b): The particulars in this clause should be verified from the instrument or agreement or any other document evidencing partnership or association of persons including any supplementary documents or other documents effecting such changes.

Audit checklist for practical understanding:

- Enquire whether the assessee is a partnership firm or Limited Liability Partnership (LLP) or AOP.
- Obtain a schedule from the assessee indicating the name of partners/members and their profit sharing ratios.
- Also see the original copy of the partnership deed/LLP agreement to find out name of the partners and their profit sharing ratios and obtain a copy of the deed and place it in the audit file.
- Enquire whether there has been any change in the partners/members or their profit-sharing ratios during the year under audit since the last date of preceding year. Also check the copy of the deed as on the last day of the preceding year and as on the first day of the previous year concerned.
- If yes, ask the assessee to produce original copy of the amendment/admission/retirement deed. Note down the details of change and state the particulars thereof. In respect of the audit for the period 1-4-2017 to 31-3-2018 any change after 31-3-2017 shall be reported.
- If there is any change in the constitution of firm/AOP on or after first day of previous year, find out the change and report the same. If there is any change in the partners of the firm or members of the association of persons or their profit sharing ratio since the last date of the preceding year, the particulars of such change must be stated. All the changes occurring during the entire previous year must be stated.
- Check the retirement deed/amendment deed/admission deed to ascertain any change in the partners/members and their profit sharing ratio.
- Obtain management representation that there is no change in the partners/members or their profit-sharing ratios and if there is any change in that respect then such change is adequately disclosed.

- Clause 10(a): Nature of business or profession (if more than one business or profession is carried on during the previous year, nature of every business or profession).
- Clause 10(b): If there is any change in the nature of business or profession, the particulars of such change.
Explanation for Clauses 10(a) and 10(b): In regard to the nature of business, the principal line of each business is to be determined and stated in this clause, i.e., the sector in which the business or profession falls such as manufacturing, trading, commission agent, builder, contractor, professionals, service sector, financial service sector, or entertainment industry. In case of a person belonging to the service sector, the nature of each type of service should be broadly stated. Thereafter, the auditor is required to mention the sub-sector pertaining to the sector selected. Information has to be furnished in respect of each business. The code to be mentioned against the nature of business pertains to the main area of business activity.

Audit checklist for practical understanding:

- Ensure that details as to every type of business that is carried out by the assessee during the previous year are given. If the assessee carries on more than one business or profession then the nature of every such business or profession carried on by the assessee during the previous year is to be stated.
- Change from one line of business to another should be treated as change of business.
- Addition/deletion of line of business shall be treated as change.
- Go through the financial statements and other related documents to ascertain whether there has been any change in the nature of business or profession carried on by the assessee.
- Pay particular attention to any business activity started/discontinued by the assessee during the year under audit. If there is any change, state the particulars thereof. Say an assessee is a retail trader and started a petrol pump, then state against this clause that during the year the assessee has started a new petrol pump.
- Obtain representation from the management regarding this point.

- Clause 11(a): Whether books of account are prescribed under section 44AA, if yes, list of books so prescribed.
- Clause 11(b): List of books of account maintained and the address at which the books of account are kept.
  (In case books of account are maintained in a computer system, mention the books of account generated by such computer system. If the books of accounts are not kept at one location, please furnish the addresses of locations along with the details of books of accounts maintained at each location.)
- Clause 11(c): List of books of account and nature of relevant documents examined.

Audit checklist for practical understanding:

- Check that the books of accounts have been maintained as required by law:
  (i) In case of professionals, requirements of section 44AA read with rule 6F of the Income Tax Rules, 1962, should be kept in mind.
In case of corporate assessee, the books of accounts required to be maintained are contained in the relevant statute.

- Rule 6F read with section 44AA has prescribed books of account to be maintained by professionals. In case the assessee is a professional then only inquiry under clause 11(a) will be answered in the affirmative and list of the books prescribed will have to be given. In case of assessees engaged in business, no such books have so far been prescribed; hence this question will be answered in the negative.
- Obtain a schedule indicating the list of books of accounts maintained. It should be duly certified by a responsible officer of the company/entity.
- Obtain details as to place where books are maintained.
- Enquire whether books are maintained on a computer system. If yes, obtain a list of books generated by such system.
- Also obtain details in respect of financial books, production records, stock records and other relevant books and records.
- Indicate all the books and other documents examined.
- In case of branch returns, similar information with regard to books of account should be asked for.

Clause 12: Presumptive Income Scheme: Whether the profit and loss account includes any profits and gains assessable on presumptive basis, if yes, indicate the amount and the relevant sections (44AD, 44ADA, 44AE, 44AF, 44B, 44BB, 44BBA, 44BBB Chapter XII-G, First Schedule or any other relevant section).

Where the profits and gains of the business are assessable to tax under presumptive basis under any of the sections mentioned below, the amount of such profits and gains credited/debited to the profit and loss account should be indicated under this clause:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Section</th>
<th>Business covered</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>44AD</td>
<td>Eligible business</td>
</tr>
<tr>
<td>2</td>
<td>44ADA</td>
<td>Eligible professionals</td>
</tr>
<tr>
<td>2</td>
<td>44AE</td>
<td>Transport business</td>
</tr>
<tr>
<td>3</td>
<td>44B</td>
<td>Shipping business of a non-resident</td>
</tr>
<tr>
<td>4</td>
<td>44BB</td>
<td>Providing service or facilities in connection with, or supplying plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils</td>
</tr>
<tr>
<td>5</td>
<td>44BBA</td>
<td>Operation of aircraft by non-resident</td>
</tr>
<tr>
<td>6</td>
<td>44BBB</td>
<td>Civil construction etc. in certain turnkey power project by non-residents</td>
</tr>
<tr>
<td>7</td>
<td>Chapter XII-G</td>
<td>Special provisions relating to Shipping Companies (Section 115V to 115VT)</td>
</tr>
</tbody>
</table>
If the profit and loss account does not include profit assessable on presumptive basis, then, there is no requirement to furnish the particulars under this clause.

The amount to be mentioned under this clause means the amount included in the profit and loss account. The tax auditor is not required to indicate as to whether such amount corresponds to the amount assessable under the relevant section relating to presumptive taxation. As such, the reporting requirement gets satisfied if the amount as per profit and loss account is reported.

**Audit checklist for practical understanding:**

- If the income is taxed on presumptive basis then the assessee is not entitled to claim any expenditure under sections 30 to 38 except the salary and interest to partners in case of a firm. The auditor should ensure that the assessee does not claim any such expenditure. Further written down value of any asset used for the purpose of such a business shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of depreciation for each of the relevant assessment years. The auditor shall ensure that the written down value of any asset used for such business is correctly determined.

- Go through the profit and loss account and check whether there is any revenue from any business which is assessable on presumptive basis under section 44AD, 44ADA, 44AE, 44B, 44BB, 44BBA, 44BBB, Chapter XII-G or any other relevant section.

- Go through the past assessment records to find out the basis at which such income was assessed in the past.

- Qualify the report if there is included any turnover from such business in the gross turnover because income from such business is to be computed on presumptive basis and if it is computed under normal provisions of the Act then the accounts are required to be audited.

- **Clause 13 (a):** Method of accounting employed in the previous year.

- **Clause 13 (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.
• Clause 13 (c): If answer to (b) above is in the affirmative, give details of such change, and the effect thereof on the profit or loss.

<table>
<thead>
<tr>
<th>Serial number</th>
<th>Particulars</th>
<th>Increase in profit (₹)</th>
<th>Decrease in profit (₹)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

• Clause 13 (d): Whether any adjustment is required to be made to the profits or loss for complying with the provisions of income computation and disclosure standards notified under section 145(2).

• Clause 13 (e): If answer to (d) above is in the affirmative, give details of such adjustments:

<table>
<thead>
<tr>
<th>ICDS I</th>
<th>Accounting Policies</th>
<th>Increase in profit (₹)</th>
<th>Decrease in profit (₹)</th>
<th>Net effect (₹)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ICDSII</td>
<td>Valuation of Inventories</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ICDSIII</td>
<td>Construction Contracts</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ICDSIV</td>
<td>Revenue Recognition</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ICDSV</td>
<td>Tangible Fixed Assets</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ICDSVI</td>
<td>Changes in Foreign Exchange Rates</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ICDS VII</td>
<td>Governments Grants</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ICDS VIII</td>
<td>Securities</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ICDSIX</td>
<td>Borrowing Costs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ICDSX</td>
<td>Provisions, Contingent Liabilities and Contingent Assets</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

• Clause 13 (f): Disclosure as per ICDS:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>ICDS</th>
<th>Disclosure</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i)</td>
<td>ICDS I- Accounting Policies</td>
<td></td>
</tr>
<tr>
<td>(ii)</td>
<td>ICDS II- Valuation of Inventories</td>
<td></td>
</tr>
<tr>
<td>(iii)</td>
<td>ICDS III- Construction Contracts</td>
<td></td>
</tr>
<tr>
<td>(iv)</td>
<td>ICDS IV- Revenue Recognition</td>
<td></td>
</tr>
</tbody>
</table>
Audit checklist for practical understanding:

Clause 13(a)
I. Review the accounting policy followed by the assessee by ascertaining the basis adopted for accounting incomes of different nature. Ensure that the accounting method employed is mercantile or cash because hybrid system is not permissible under the Act.
II. Obtain a management representation as to the method of accounting followed.
III. Pay particular attention to the method employed to account for the following incomes-
   (i) Interest on Fixed deposits; (ii) Insurance expenses and claims; (iii) Export incentives; (iv) Tax refunds including income-tax, sales tax, excise duty; (v) Cash incentives received; (vi) Benefits arising out of business like free holiday trip to foreign country on achieving sales targets; (vii) Claims, settlements, grants, subsidies; and (viii) Bad debts recovered.

Clauses 13(b) and 13(c)
I. Enquire whether there has been any change in the method of accounting employed vis-a-vis the method employed in the immediately preceding previous year. If yes, note down the details. Take a copy of the previous year’s financial statements to ascertain the method followed in the previous year. If it is the first year of audit then obtain a management representation as to method of accounting followed in the immediately preceding previous year.
II. If there is any change in method of accounting followed, then ensure that the details of change are appropriately disclosed in the financial statements as well as the report and effect thereof on the profit/loss is also disclosed.
III. Obtain a management representation from the management regarding to the nature of change.
IV. The reasons for changes in the method of accounting employed and their effect on profit and loss are not required to be stated yet its disclosure will make the report more self-contained.
V. Quantify the effect of change in method of accounting on the profit or loss for the current year.
Clause 13(d)

I. Ensure that the method of accounting employed by the assessee is in conformity with the accounting standards prescribed under section 145.

II. If there is any deviation, then quantify the effect thereof on the profit or loss for the period and mention the amount so quantified in the report.

Clause 13(e) & (f)

ICDS is not meant for maintenance of books of accounts or preparation of financial statements. Persons are required to maintain books and prepare financial statements as per accounting policies applicable to them. The accounting policies mentioned in ICDS-I being fundamental in nature shall be applicable for computing income under the heads “Profits and gains of business or profession” or “Income from other sources”.

- Clause 14 (a): Method of valuation of closing stock employed in the previous year.
- Clause 14 (b): Details of deviation, if any, from the method of valuation prescribed under section 145A, and the effect thereof on the profit or loss, please furnish:

<table>
<thead>
<tr>
<th>Serial Number</th>
<th>Particulars</th>
<th>Increase in Profit (₹)</th>
<th>Decrease in Profit (₹)</th>
</tr>
</thead>
</table>

Audit checklist for practical understanding:

(i) Clause 14(a)

- Ascertain the method of valuation of stock employed during the previous year.

- Where there is change in the basis of determining cost, market value or net realisable value even though there is no change in the method of valuation, the same should be reported under clause 14.

- Where there is change in the method of valuation then determination should be made of the direct effect of such change on profits for the year and disclosure be made under clause 14.

- Ascertain from the management the method adopted by it for valuation of closing stock.

- Obtain from the assessee inventory valuation sheet of the stock-in-trade giving quantitative details, method of valuation, rate and total value of each item.

- Stock records should be checked for opening balances, receipts, issues and closing balances. Comparison of the balances as per stock records, should be done with balances obtained on physical verification. Any discrepancies between the two should be noted.
Inventory valuation sheet should be checked thoroughly with regard to quantities, rates, methods of valuation and calculation made.

Stock certificate should be obtained in the format as recommended by the Institute of Chartered Accountants of India.

If there is any change is the method of valuation of closing stock then the fact and effect of such change would have to be disclosed as per the requirements of clause 14.

If the assessee is not maintaining any stock records then ascertain on what basis the value of stock has been arrived at. State the fact in the report.

If possible, depute persons to attend stock taking by the assessee to review the process. Otherwise take a detailed look at the notes on stock taking and the instructions issued to the stock taking personnel. Test check the valuation procedure.

(ii) Clause 14(b)

Review the method of valuation adopted for valuation of closing stock and compare the same with the method prescribed under section 145A.

Ascertain whether the method of valuation is such that the value of closing stock includes the amount of any tax, duty, cess or fee actually paid or incurred by the assessee to bring the goods to the place of its location and condition as on the date of valuation.

Pay particular attention to the following:

- That the duties paid in respect goods cleared have been included;
- That the duties payable in respect of goods held in bond have been included.

Check that opening stock of raw materials/purchase price of raw materials/ closing stock of raw materials includes all taxes, duties even though they are refundable in nature.

Ascertain whether there is any deviation the method of valuation of closing stock as compared to the provisions contained in section 145A. If yes, then ensure that the fact as to deviation and effect of such deviation on the profit or loss is adequately disclosed.

- 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.
Audit checklist for practical understanding:

- **Clause 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.

Audit checklist for practical understanding:

<table>
<thead>
<tr>
<th>(i)</th>
<th>Incomes Falling Under Section 28 [Clause 16(a)]</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Ascertain whether the assessee has earned any income falling under section 28 or derived any benefit referred to in that section. Examine whether such income is credited to profit and loss account or not. If not, then report the fact.</td>
</tr>
<tr>
<td></td>
<td>The auditor should go through the books of accounts of the assessee to find out whether there are any receipts of the nature specified in section 28 which have not been included in the total income of the assessee.</td>
</tr>
<tr>
<td></td>
<td>The auditor should ensure that such income has been correctly computed by allowing the expenditure that is statutorily allowable and ignoring the expenditure not so allowable.</td>
</tr>
<tr>
<td></td>
<td>Pay particular attention to check whether the assessee has obtained any benefit or perquisite referred to in section 28(iv) and whether value thereof has been credited to the profit and loss account.</td>
</tr>
<tr>
<td></td>
<td>In present times, various companies award various benefits to their dealers on achieving sales targets like all expenses paid foreign trip or vehicles or white goods, etc. Quantify the value of such benefit and ensure that the</td>
</tr>
</tbody>
</table>
amount involved is credited to the profit and loss account, otherwise state the fact against this clause.

(ii) Proforma Credits, Drawbacks, Refund of Duty, Etc. [Clause 16(b)]

- Enquire whether there has been admitted any claim in respect of proforma credits/drawbacks/refund of duties of customs or excise or both/refund of sale tax/service tax/value added tax by the authorities. If yes, then obtain a schedule from the assessee indicating details of all such claims admitted by the authorities but not credited to the profit and loss account.
- Cross check the details contained in the schedule with the claim, papers and other relevant correspondence including assessment orders. Ensure that the claims have been admitted as due by the concerned authorities.
- Note that the item admitted by the authorities will mean the item admitted before the closing of accounts.
- Ensure that the accounting of such claims is in accordance with the method of accounting regularly followed by the assessee.
- Ensure that all the claims admitted have been credited to the Profit and loss account. Any exception should be reported.
- Where cash system of accounting is followed then this fact should be stated in the report.

The reporting should be done in the following format:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Date on which claim lodged</th>
<th>Nature of claim lodged</th>
<th>Amount</th>
<th>Status of claim</th>
<th>Status at year end</th>
<th>Whether received after year end (Y/N)</th>
<th>Date of Receipt</th>
<th>Remark</th>
</tr>
</thead>
</table>

(iii) Escalation Claims [Clause 16(c)]

- This inquiry is particularly relevant to the assessees engaged in the real estate, construction, EPC and infrastructure business.
- The auditor may check some agreements on a sample basis in respect of any contract undertaken by the assessee during the previous year and find out whether there is any escalation clause therein. If yes, then check whether any escalation claims have been made by the assessee during the previous year under audit.
- Obtain a schedule indicating details as to escalation claims made by the assessee during the previous year. Check the claims that have been accepted by the assessees clients/customers. Ensure that the claims have been accepted as due during the previous year. It may happen that only a part of the claim has been accepted.
- Check whether the claims accepted have been accounted for and the amount involved has been credited to profit and loss account. If the claims have not been accounted for, then state the fact and the amount involved.
If the assessee follows cash system of accounting, then working of claims would be of no significance till the amount involved is received. Because in that case nothing would be credited to profit and loss account. But the auditor should state the fact and amount involved even in such cases.

### (iv) Any Other Income [Clause 16(d)]
- Enquire whether during the previous year the assessee has earned any income which has not been credited to the profit and loss account. Note that the inquiry will extend to any income, which is chargeable to tax and will not be limited to the business/professional income.
- The auditor should check thoroughly the bank account of the assessee and also the cash book to find out any credits regarding any income earned but not credited to profit and loss account of the assessee.
- Pay particular attention to the following incomes:
  - Interest on fixed deposit;
  - Discounts received;
  - Insurance claims received;
  - Any type of reimbursements.

### (v) Capital Receipt [Clause 16(e)]
- It is to be noted that capital receipts are not generally credited to profit and loss account hence the auditor should take enough care to check out any transaction generating receipts of capital nature--
- Enquire whether the assessee is in receipt of any amount of capital nature during the previous year. Capital receipt may include sale of fixed assets, subsidies, non-compete fees, etc.
- Go through the financial statements, in particular the reserve account, to ascertain whether the assessee has received any such receipts and credited them directly to the reserve account.
- If the assessee has received any amount of capital nature during the year under audit, then enquire whether the assessee has credited such receipts to profit and loss account. State the fact and the amount involved.
- Check that any such receipt is accounted for in terms of method of accounting followed by the assessee.

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While writing the audit program for tax audit in respect of A Ltd., you wish to include possible instances of capital receipt if not credited to Profit & Loss Account which needs to be reported under clause 16(e) of Form 3CD. Please elucidate possible instances.

The following is an illustrative list of capital receipts which, if not credited to the profit and loss account, are to be stated under clause 16(e) of Form 3CD-

(a) Capital subsidy received in the form of Government grants, which are in the nature of promoters’ contribution i.e., they are given with reference to the total investment of the
undertaking or by way of contribution to its total capital outlay. For e.g., Capital Investment Subsidy Scheme.

(b) Government grant in relation to a specific fixed asset where such grant is shown as a deduction from the gross value of the asset by the concern in arriving at its book value.

(c) Compensation for surrendering certain rights.

(d) Profit on sale of fixed assets/investments to the extent not credited to the profit and loss account.

Clause 17: Where any land or building or both is transferred during the previous year for a consideration less than value adopted or assessed or assessable by any authority of a State Government referred to in section 43CA or 50C, please furnish:

<table>
<thead>
<tr>
<th>Details of property</th>
<th>Consideration received or accrued</th>
<th>Value adopted or assessed or assessable</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Audit checklist for practical understanding:

 Obtain particulars of all land or building or both transferred during the previous year.

 Obtain following details:

(a) Consideration stated in transfer documents

(b) Value adopted or assessed or assessable by any authority of a State Government.

Clause 18: Particulars of depreciation allowable as per the Income-tax Act, 1961 in respect of each asset or block of assets, as the case may be, in the following form:

(a) Description of asset/block of assets.

(b) Rate of depreciation.

(c) Actual cost or written down value, as the case may be.

(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.

Having regard to the nature of requirements prescribed, it may be necessary for the tax auditor to examine:

<table>
<thead>
<tr>
<th>Classification of the asset</th>
<th>Classification thereof to a block</th>
<th>working of actual cost or written down value</th>
<th>The date of acquisition and the date on which it is put to use</th>
<th>The applicable rate of depreciation</th>
<th>additions / deductions and dates thereof</th>
<th>Adjustments required – specified as well as on account of sale, etc.</th>
</tr>
</thead>
</table>

For the purpose of determining the rate of depreciation, the tax auditor has to examine the classification of the assets into various blocks. The purpose for which the asset is used is also very material in this regard. Hence, the tax auditor should ensure that the classification as made by the assessee is in consonance with legal principles.

**Audit checklist for practical understanding:**

(i) Wherever, the full deduction of the cost of capital goods is allowed (e.g. expenditure on Scientific Research u/s. 35) the auditor should verify that the cost of such asset is not included in the block of assets for the purpose of depreciation. Description of Asset [Clause 18(a)]
- Obtain fixed asset register of the assessee.
- Check the classification of the assets into different blocks whether the same has been done correctly or not. This is necessary because in most cases rate rate at which depreciation is charged in accounts is different from the rate at which the same is charged for tax purposes.

(ii) Rate of Depreciation [Clause 18(b)]
- The auditor should go through the rates of depreciation prescribed for different categories of assets. Ensure that the additional depreciation is claimed under section 32(1)(iia) at rate prescribed under that section.

(iii) Actual Cost or Written Down Value of the Asset [Clause 18(c)]
- Verify opening WDV with the Form 3CD/ tax return submitted for immediately preceding previous year.
- Verify the segregation of the assets acquired during the year between the assets used for 180 days or more and the assets used for less than 180 days.
- In case of an asset newly coming into existence during the previous year, the auditor shall check some samples of vouchers reflecting payment made by the assessee to check the actual cost of the asset. In case any amount is capitalised and added to the
purchase price, the auditor shall check whether the amount eligible for capitalisation has only been capitalised.

- Basis of determining cost of intangible assets should be examined carefully.
- For verifying CENVAT credit, the auditor shall go through the excise records to find out CENVAT credit availed of by the assessee during the previous year.
- In case an asset is purchased in foreign currency on deferred payment basis, the auditor shall verify the increment/decrement in liability thereof on the basis of change in rate of exchange of currency. The change in rate of exchange can be verified from the RBI bulletin. The auditor shall take note of provision of section 43A in terms of which only such liability due to fluctuation in foreign exchange, which is taken into account at the time of making the payment, irrespective of the method of accounting adopted by the assessee can only be added to the actual cost of the asset.
- In case of subsidy the auditor can verify the existence thereof by going through the letter of appropriate authority granting the subsidy and the receipt thereof can be verified from the bank records on test check basis.

(iv) Sale or Purchase of Asset During the Year [Clause 18(d)]
- The auditor shall review the fixed assets register and check the dates of additions/deductions of the assets on a sample basis.
- Obtain a list of assets sold/demolished/discarded during the year and ensure that WDV thereof is reduced from the WDV of the block of assets.
- Obtain copies of the documents relating to acquisition/sale of fixed assets.

(v) Depreciation Allowable [Clause 18(e)]
- The auditor shall check whether the depreciation is calculated by applying the correct rate of depreciation on the written down value at year end applicable in case of the asset concerned.
- The written down value of the block at the year end is calculated correctly by taking the relevant figure at the beginning of year and adjusted in respect of the additions/deductions during the year.
- The auditor shall check whether any asset has been put to use for less than 180 days because in respect of such an asset only 50 per cent of the amount of depreciation is allowable.

(vi) Written Down Value at the Year End [Clause 18(f)]
- The auditor shall check the WDV at the beginning of the year in respect of each of the blocks of assets.
- The auditor shall check that current amount of depreciation is calculated on the WDV at the beginning of the year as adjusted by the additions/deletions during the year. The correctness of the amount of depreciation can be checked by verifying the rates of depreciation applicable as specified in Appendix I and IA to Income Tax Rules, 1962.

(vii) Check the calculation of depreciation and ensure that the depreciation is correctly computed.
• Clause 19: Amounts admissible under sections:

<table>
<thead>
<tr>
<th>Section:</th>
<th>Amount debited to profit and loss account:</th>
<th>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:</th>
</tr>
</thead>
<tbody>
<tr>
<td>32AC, 32AD, 33AB, 33ABA, 35(1)(i), 35(1)(ii), 35(1)(iia), 35(1)(iii), 35(1)(iv), 35(2AA), 35(2AB), 35ABB, 35AC, 35AD, 35CCA, 35CCB, 35CCC, 35CCD, 35D, 35DD, 35DDA, 35E.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Audit checklist for practical understanding:

1. Obtain from the assessee complete details in respect of expenditure incurred under sections 32AC, 32AD, 33AB, 33ABA, 35(1)(i), 35(1)(ii), 35(1)(iia), 35(1)(iii), 35(1)(iv), 35(2AA), 35(2AB), 35ABA, 35ABB, 35AC, 35AD, 35CCA, 35CCB, 35CCC, 35CCD, 35D, 35DD, 35DDA and 35E and deduction claimed on account thereof in the following format—

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Date</th>
<th>Relevant Section</th>
<th>Particulars of transaction</th>
<th>Amount debited to P&amp;L A/c</th>
<th>Deduction admissible</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2. Verify the claim of deduction with specific reference to the following—
   - the fact that assessee is eligible for deduction under the relevant section;
   - that the deduction is correctly computed;
   - that the assessee fulfils all the conditions specified in the impugned section for allowability of deduction.

3. Ensure that amount is properly deposited in the specified account for availing of deduction under each of these sections.

4. Ensure that amount credited to the reserve account is properly utilised according to the scheme of relevant section.

5. Check the details of expenditure debited or not debited to the profit and loss account with supporting documents.

• Clause 20(a): Any sum paid to an employee as bonus or commission for services rendered, where such sum was otherwise payable to him as profits or dividend. [Section 36(1)(ii)].
Audit checklist for practical understanding:

**Bonus or Commission Paid to Employees [Clause 20(a)]**
- Obtain a list of employees eligible for bonus or commission for services rendered with amounts.
- Check the basis for calculation of bonus or commission for services rendered.
- Obtain a management representation that the sum paid to employees as bonus, etc. was not payable to them as profit or dividend.
- The auditor should obtain from the assessee particulars of the expenditure incurred on bonus paid to employees in the following format:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Description of persons</th>
<th>Bonus amount</th>
<th>Expenditure not considered as bonus</th>
<th>Description</th>
<th>Remarks</th>
</tr>
</thead>
</table>

- Check the accounts for (i) Commission, (ii) Bonus, (iii) Salary and wages, (iv) Staff welfare to ensure that all bonus and commissions paid to employees have been included in the statement and employee contracts on sample basis.
- Details of commission paid to employees should be furnished as under:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Voucher No.</th>
<th>Date</th>
<th>Name of Employee</th>
<th>Amount</th>
<th>Description of commission</th>
<th>Basis of determination</th>
<th>Remarks</th>
</tr>
</thead>
</table>

- The auditor should check whether bonus and commission paid to employees for services rendered were otherwise payable to them as profits or dividend. If, yes, then report such payments.

**Clause 20(b): Details of contributions received from employees for various funds as referred to in section 36(1)(va):**

<table>
<thead>
<tr>
<th>Serial number</th>
<th>Nature of fund</th>
<th>Sum received from employees</th>
<th>Due date for payment</th>
<th>The actual amount paid</th>
<th>The actual date of payment to the concerned authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Audit checklist for practical understanding:

**Contribution From Employees Towards Fund Set Up For Their Welfare [Clause 20(b)]**
- Obtain from the assessee a schedule indicating the sum received from employees towards contributions to any provident fund or superannuation fund or any other fund mentioned in section 2(24)(x), in the following manner. Such schedule shall also indicate
the due date of payment and actual date of payment. Also verify the payment through payment challans.

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Date</th>
<th>Particulars of receipt</th>
<th>Amount received</th>
<th>Amount paid</th>
<th>Due date for payment</th>
<th>Actual date for payment</th>
<th>Remarks</th>
</tr>
</thead>
</table>

- Check the correctness of the said statement with vouchers and books of account.
- Scrutinise the ledger of the employees.
- Make sure that the amount received from employees has been deposited with the concerned authorities within due date.

- **Clause 21(a):** Please furnish the details of amounts debited to the profit and loss account, being in the nature of Capital, personal, advertisement expenditure etc.:

<table>
<thead>
<tr>
<th>Nature 換行</th>
<th>Serial number</th>
<th>Particulars</th>
<th>Amount in ₹</th>
</tr>
</thead>
</table>

  - Capital Expenditure
  - Personal Expenditure
  - Advertisement expenditure in any souvenir, brochure, tract, pamphlet or the like published by a political party
  - Expenditure incurred at clubs being entrance fees and subscriptions
  - Expenditure incurred at clubs being cost for club services and facilities used.
  - Expenditure by way of penalty or fine for violation of any law for the time being force
  - Expenditure by way of any other penalty or fine not covered above
Expenditure incurred for any purpose which is an offence or which is prohibited by law

- Clause 21(b): Amounts inadmissible under section 40(a):
  (i) As payment to non-resident referred to in sub-clause (i)

  (A) Details of payment on which tax is not deducted:
      (I) date of payment
      (II) amount of payment
      (III) nature of payment
      (IV) name and address of the payee

  (B) Details of payment on which tax has been deducted but has not been paid during the previous year or in the subsequent year before the expiry of time prescribed under section 200(1)
      (I) date of payment
      (II) amount of payment
      (III) nature of payment
      (IV) name and address of the payee
      (V) amount of tax deducted

  (ii) As payment referred to in sub-clause (ia)

  (A) Details of payment on which tax is not deducted:
      (I) Date of payment
      (II) Amount of payment
      (III) Nature of payment
      (IV) Name and address of the payee

  (B) Details of payment on which tax has been deducted but has not been paid on or before the due date specified in sub-section (1) of section 139.
      (I) Date of payment
      (II) Amount of payment
      (III) Nature of payment
      (IV) Name and address of the payer
      (V) Amount of tax deducted
      (VI) Amount out of (V) deposited, if any

  (iii) Under sub-clause (ic) [wherever applicable]

  (iv) Under sub-clause (iia)

  (v) Under sub-clause (iib)
(vi) Under sub-clause (iii)

(A) Date of payment
(B) Amount of payment
(C) Name and address of the payee

(vii) Under sub-clause (iv)

(viii) Under sub-clause (v)

*should be read as “payee” for proper reporting.

This clause is substantially expanded to furnish detailed information for deduction and deposit of TDS. Section 40(a) specifies certain amounts which shall not be deducted in computing the income chargeable under the head “Profits and gains of business or profession”. In case where the assessee submits that any sum debited to profit and loss account is not inadmissible under the provisions of sub-section (a) of section 40, the tax auditor may exercise his judgment in the light of the applicable laws and report accordingly about the compliance of this provision.

The auditor should go through the books of the assessee to ascertain as to whether he has complied with the provisions contained in the Act. Auditor should go through the Profit & Loss A/c and scrutinise each ledger one by one and ascertain whether applied tax is deducted at the specified rate as per the Act.

- **Clause 21(c): Amounts debited to profit and loss account being, interest, salary, bonus, commission or remuneration inadmissible under section 40(b)/ 40(ba) and computation thereof.**

The tax auditor is required to state the inadmissible amount under section 40(b)/40(ba) and such information is also required to be given in respect of interest/ remuneration paid to a member of an Association of persons (AOP)/Body of individuals (BOI). By Finance Act (No.2) 2009, w.e.f. 1.4.2010, the term firm includes LLP (as registered under the provisions of LLP Act, 2008) The word “inadmissible” implies that the tax auditor will have to examine the facts, apply the conditions for allowance or disallowance and accordingly determine the prima facie inadmissibility of the deduction and also quantify the same.

In order to determine the amounts inadmissible under section 40(b), the tax auditor should obtain the computation of total income from the assessee.

The tax auditor should maintain the information in the prescribed format as a part of his working papers and report appropriately in the format provided in the e-filing utility. The tax auditor may note that the information required to be reported is the amount of inadmissible expenditure as per section 40(b) or 40(ba) and not the total amount debited to profit and loss account.
• **Clause 21(d): Disallowance/deemed income under section 40A(3).**

(A) On the basis of the examination of books of account and other relevant documents/evidence, whether the expenditure covered under section 40A(3) read with rule 6DD were made by account payee cheque drawn on a bank or account payee bank draft. If not, please furnish the details:

<table>
<thead>
<tr>
<th>Serial Number</th>
<th>Date of Payment</th>
<th>Nature of Payment</th>
<th>Amount</th>
<th>Name and Permanent Account Number of the payee, if available</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(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):

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Date of Payment</th>
<th>Nature of Payment</th>
<th>Amount</th>
<th>Name and Permanent Account Number of the payee, if available</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

For the purpose of furnishing the above particulars, the tax auditor should obtain a list of all cash payments in respect of expenditure exceeding ₹ 10,000/- (₹ 35000/- in case of plying, hiring or leasing goods carriages) made by the assessee during the relevant year which should include the list of payments exempted in terms of Rule 6DD with reasons. This list should be verified by the tax auditor with the books of account in order to ascertain whether the conditions for specific exemption granted under clauses (a) to (l) of Rule 6DD are satisfied. Details of payments which do not satisfy the above conditions should be stated under this clause.

The tax auditor has to take into account the technological advancements in the field of banking and information technology where payments have been taken other than through an account payee cheque or bank draft.

The auditor should go through the Cash Book, Cash Vouchers, Bills etc. of the assessee so as to ascertain whether the assessee have complied with the provisions of the Act and report if any payments not complying the conditions specified in the Act.

• **Clause 21(e): Provision for payment of gratuity not allowable under section 40A(7).**

As per section 40A(7), the deduction shall be allowed in relation to any provision made by the assessee for the purpose of payment of a sum by way of any contribution towards an approved gratuity fund, or for the purpose of payment of any gratuity, that has become payable during the previous year.
The tax auditor should call for the order of the Commissioner of Income-tax granting approval to the gratuity fund, verify the date from which it is effective and also verify whether the provision has been made as provided in the trust deed.

In case the provision made for payment of gratuity is not allowable under section 40A(7), the same is to be stated under this sub-clause.

- **Clause 21(f):** Any sum paid by the assessee as an employer not allowable under section 40A(9).

  Under section 40A(9) any payment made by an employer towards the setting up or formation of or as contribution to any fund, trust, company, association of persons, body of individuals, society registered under the Societies Registration Act, 1860, or other institutions (other than contributions to recognised provident fund or approved superannuation fund or notified pension scheme or approved gratuity fund) is not allowable. The tax auditor should furnish the details of payments which are not allowable under this section.

- **Clause 21(g):** Particulars of any liability of a contingent nature.

  The assessee is required to furnish particulars of any liability of a contingent nature debited to the profit and loss account. The tax auditor may not be able to immediately ascertain the details of contingent liabilities debited to the profit and loss account without a detailed scrutiny of various account heads e.g. outstanding liabilities, provision etc. Accounting policy followed and disclosed would be helpful in ascertaining and verifying details. The 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.

- **Clause 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.

  The tax auditor shall examine the details of amount of inadmissible expenditure as furnished 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.
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.

Tax auditor should also obtain management representation in respect of this point.

- **Clause 21(i): Amount inadmissible under the proviso to section 36(1)(iii).**

The provisions of section 36(1)(iii) provide that the amount of the interest paid in respect of capital borrowed for the purposes of the business or profession would be allowed as a deduction in computing the income referred to in section 28 of the Act.

The proviso thereunder provides that any amount of the interest paid, in respect of capital borrowed for acquisition of an asset for extension of existing business or profession (whether capitalized in the books or account or not) for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was put to use, shall not be allowed as a deduction.

The extension of an existing business or profession is a fact based exercise and the tax auditor should apply the professional judgment in determining the applicability of the proviso. The tax auditor is also advised to verify the treatment given for such asset under other provision of the Act like Chapter VI A deductions or under other statutes.

The tax auditor has to verify the correctness of the particulars furnished by the assessee with the documentary evidence.

**Audit checklist for practical understanding:**

<table>
<thead>
<tr>
<th>(i)</th>
<th>Amounts Debited to Profit &amp; Loss Account [Clause 21(a)] (Inquiry Under Clause 21(a) of Form No. 3CD)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Obtain details of capital expenditure debited to profit and loss account even if the same is deductible under the Income Tax Act:</td>
</tr>
<tr>
<td></td>
<td>(i) Other capital assets written off.</td>
</tr>
<tr>
<td></td>
<td>(ii) Scientific research expenditure of capital nature under section 35.</td>
</tr>
<tr>
<td></td>
<td>The format to be used for aforesaid purpose is given above.</td>
</tr>
<tr>
<td></td>
<td>Obtain the details of amounts capitalised in the cost of fixed assets and capital work-in-progress.</td>
</tr>
<tr>
<td></td>
<td>Ensure the correctness of the details of capital expenditure with vouchers and assets records.</td>
</tr>
<tr>
<td></td>
<td>Check the complete details of expenses under the following heads to ensure that no capital expenditure is included therein:</td>
</tr>
<tr>
<td></td>
<td>(i) Travelling expenses;</td>
</tr>
<tr>
<td></td>
<td>(ii) Staff welfare;</td>
</tr>
<tr>
<td></td>
<td>(iii) Salaries and wages;</td>
</tr>
<tr>
<td></td>
<td>(iv) Depreciation;</td>
</tr>
</tbody>
</table>
(v) Stores and spares consumed;
(vi) Repairs and maintenance;
(vii) Labour expenses;
(viii) Interest paid on borrowed capital particularly if the capital is borrowed for acquisition of any fixed asset;
(ix) Preliminary expenses; and
(x) Scientific research expenditure.

- Those items of capital expenditure, which are otherwise fully deductible under the Act, should be separately indicated under this clause.
- Check whether any capital expenditure has been debited to profit and loss account. State the fact and amount involved.
- Keep in mind the nature of the concern, the business carried on by the assessee and the capitalization policy of the assessee.

(ii) **Personal Expenses Debited to Profit & Loss Account [Clause 21(a)]**
The aforesaid information should be collected in the following format:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Voucher No.</th>
<th>Date</th>
<th>Account</th>
<th>Name of the person in respect of whom expenditure incurred</th>
<th>Account head under which debited</th>
<th>Description of Expenditure</th>
<th>Reasons for treating as personal</th>
<th>Details of expenditure</th>
<th>Remarks in earlier year(s)/if disputed</th>
</tr>
</thead>
</table>

- The auditor may also refer to the report of the statutory auditor to check whether there were any personal expenses he has reported.
- Where payment is made to employees under a contractual obligation then it need not to be disclosed even if it is of personal nature.
- Check the supporting documents relating to the above heads of expenditure to determine personal element therein.
- Obtain copies of the latest income-tax assessment order of the last three years and find out the basis of disallowance as personal expenditure by the assessing officer. Where any appeal was preferred by the assessee against the order of the assessing officer then find out whether the appeal was allowed by the Appellate Tribunal.
- Scrutinise various expenses account to ascertain whether any expenses of personal nature are debited to the profit and loss account.
- Scrutinise telephone expense account and vehicle expense account to ascertain personal element involved. Obtain a declaration from the assessee that these two expenses account do not include personal expenses. In the report do not rule out the possibility of personal element involved in these expenses. These two expense accounts should particularly be scrutinised in case of firms/proprietorship...
concern. In case of companies, it has been held by various courts that in case of companies there can be no personal element in the expenses incurred.

- Also scrutinise the following expenses accounts:
  - Expenditure on Presents and Gifts;
  - Travelling expenses;
  - Repairs and maintenance;
  - Bank charges; and
  - Entertainment expenses.

- Also review the relevant accounts to ensure that no personal expenses are charged to profit and loss account.

(iii) Expenses on Advertisement in the Media of a Political Party [Clause 21(a)]

- Enquire whether the assessee has incurred any expense on advertisement in any souvenir, brochure, tract, pamphlet or the like published by a political party.
- The auditor can request for information in the following manner:

<table>
<thead>
<tr>
<th>Date</th>
<th>Voucher No.</th>
<th>Name of political party</th>
<th>Nature of expenditure</th>
<th>Amount</th>
</tr>
</thead>
</table>

- Obtain from the client bill of the political party for the advertisement and a copy of the advertisement published.
- Check the expenditure incurred with the bills of advertisement of the political parties and from the copy of the advertisement published.

(iv) Expenses Incurred at Clubs [Clause 21(a)]

- Obtain a schedule indicating payments made to clubs classified as under:
  - As entrance fees;
  - As subscriptions;
  - As payments for club services and facilities.
- Ensure that a payment made as reimbursements (like reimbursement of entrance fee, subscription fees, payments for club services, etc.) to employees is also included.
- Obtain from the assessee particulars of club expenses in the following manner:

<table>
<thead>
<tr>
<th>Date</th>
<th>Voucher No.</th>
<th>Name of Director/ Employees</th>
<th>Entrance Fee</th>
<th>Amount paid for Locker</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Catering</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Subscription</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Rent</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Others</td>
<td></td>
</tr>
</tbody>
</table>

- If separate account for club expenses has been maintained then ensure that all expenses relating to clubs have been debited to such account. Also scrutinise the ledger accounts of staff welfare, entertainment expenses, sales promotion and miscellaneous expenses, etc., to see that all expenses relating to clubs are identified and included in the above statement.
(v) **Penalty or Fine [Clause 21(a)]**
- Check whether assessee has incurred expenditure by way of penalty or fine for violation of any law for the time being in force. Check whether assessee has incurred expenditure for any purpose which is an offence or which is prohibited by law.
- Obtain a certificate from the management to the effect that no expenses have been incurred as penalty or fine and if any such expenses have been incurred then the same is disclosed properly in the book.
- Obtain a schedule indicating details of payments as under:
  - Expenditure by way of penalty or fine for violation of any law for the time being in force;
  - Any other penalty or fine;
  - Expenditure incurred for any purpose which is an offence or which is prohibited by law.
- For this purpose, check the following records/accounts:
  - Sales tax records
  - Export/Import documents/records
  - ESI/PF records
  - Contract agreements.
- Ask the assessee to furnish details of all expenses by way of penalty or fine. If there is any such expenditure then segregate the same as per the requirement of clause 21(a).
- Enquire whether any payments have been made towards legal fee. If yes, enquire as to the reason for which such payment has been made. Check whether any such payment has been made for consultation in any matter involving penalty for violation of law or for defending in any case involving any offence, etc.

(vi) **Amounts Inadmissible Under Section 40(a) [Clause 21(b)]**
Ascertain whether the assessee has made any payment of interest, royalty, fees for technical services or other sum chargeable under the Act, which is payable:
- outside India; or
- in India to a non-resident, not being a company or to a foreign company.
On which tax is deductible at source under Chapter XVII-B:
- Check, the following accounts to comply with the requirements of section 40(a):
  - TDS
  - Salary
  - Interest
  - Royalty
  - Commission
  - Brokerage
- Fees for technical services
- Fees for professional services
- Amounts payable to contractor/sub-contractor
- Share purchase/sale account
- Income Tax
- Wealth Tax
- Any other tax account
- Salary
- Provident Fund.

Any amount not deductible under section 40(a) should be presented in the following format:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Account Head</th>
<th>Total Amount</th>
<th>Amount Inadmissible</th>
<th>Comments</th>
</tr>
</thead>
</table>

(i) If yes then enquire whether the tax has been deducted in respect of such payment. If the answer is in affirmative then note down the amount paid and date of payment from the copy of challan.

(ii) Check whether the date of payment is within the time prescribed by section 139(1).

(iii) In all the above cases deduction would be allowed in the computation of income of the previous year during which liability for payment has been incurred.

In case the tax is deducted in a subsequent year or deducted in the previous year and is paid after the time prescribed under section 139(1) then the deduction for the amount concerned would not be allowed in the previous year under consideration. If no tax is deducted or is not paid to the government after deduction then no deduction will be allowed in respect of such payments.

- In respect of section 40(a)(ia) check the following:
  - Whether any payment covered by section 40(a)(ia) is made by the assessee during the previous year and debited to the profit and loss account?
  - Whether tax is deductible under chapter XVII-B in respect of such payments?
  - Whether tax has been deducted?
  - Whether tax has been remitted to the government as per requirement of section 40(a)(ia)
  - The challan indicating deposit of amount involved is to be checked and verified.
  - Verify TDS returns

- Check whether the assessee has made any payments which is chargeable as salaries and is:
a. payable outside India or  
b. to a non-resident

- If yes, check whether the assessee has paid tax thereon or deducted tax therefrom. If there is failure either in paying tax thereon or in deducting tax therefrom then amount so paid will be disallowed. In particular check the following:
  Salary accounts, perquisite accounts.
  TDS account.

(vii) Amount Inadmissible Under Section 40(b)/40(ba) [Clause 21(c)]

- Obtain from the client particulars of payments by way of interest, salary, bonus, commission or remuneration to the partners of the firm in the following manner:

<table>
<thead>
<tr>
<th>Date</th>
<th>Voucher No.</th>
<th>Name of partners</th>
<th>Interest (Indicate rate of interest)</th>
<th>Salary</th>
<th>Bonus</th>
<th>Commission (Indicate whether a working partner)</th>
<th>Remuneration</th>
</tr>
</thead>
</table>

- Obtain from the assessee a certified copy of partnership deed.
- Go through the partnership deed to ascertain the terms and conditions as to payment of interest and remuneration to partners.
- The following conditions are required to be satisfied to obtain deduction of remuneration paid to partners:
  (i) Remuneration should be paid only to a working partner;
  (ii) Remuneration must be authorised by the partnership deed;
  (iii) Remuneration should not relate to period prior to partnership deed; and
  (iv) Remuneration should not exceed the prescribed limit.
- The following conditions should be satisfied to obtain deduction of interest paid to partners:
  (i) Payment of interest should be authorised by partnership deed;
  (ii) Payment of interest should not relate to period prior to partnership deed; and
  (iii) Rate of interest should not exceed 12 per cent.
- Check the above particulars with reference to the partnership deed, books of account and vouchers.
- Scrutinise the ledger accounts of interest, salary, bonus, and commission to ensure that all payments to partners under these heads have been identified and included in the above statement.
- Commission or bonus may in general be regarded as part of remuneration.
- Go through the partnership deed to ascertain the terms and conditions as to payment of interest and remuneration to partners.
- Check the calculation of book profit.
- In case of AOP, any payment of interest and remuneration to members thereof is straightway disallowable.

(viii) **Amount Inadmissible Under Section 40A(3)[Clause 21(d)]**
- Obtain a list of all payments exceeding `10,000/- in aggregate to a single party on a day made by the assessee during the year under audit, if such payments are made otherwise than by account payee cheque drawn on a bank or account payee bank draft.
- Scrutinise the entries in cash book for correctness of the list.
- From the list so obtained, identify the payments falling under rule 6DD. Check these payment with vouchers.
- Scrutinise cash book and prepare a list indicating all the expenses for which payment or aggregate payment in a day has been made in excess of `10,000/- to a single party. Ask the assessee to furnish reasons for such cash payment. Check if the payments are covered by exceptions contained in rule 6DD or any circular issued by the CBDT. If yes, indicate the details of such expenses and also the fact that they are covered by exception contained in rule 6DD or CBDT circular.
- Obtain management representation that no expenses, other than specified above, is paid otherwise than by way of account payee cheque/draft in excess of specified limits.
- Obtain a certificate from management regarding payments relating to any expenditure covered under section 40A(3) and 40A(3A) that the payments were made by account payee cheque drawn on a bank or account payee bank draft, as the case may be.
- Note that only payment towards revenue expenses are covered under section 40A(3). Payment for purchase of raw material and stocks are also covered.
- As per the ICAI, where the client is not able to obtain paid cheques from the bank (which are practically not available) then the auditor should obtain a certificate from the management to the effect that all payments through bank in excess of `10,000/- in aggregate, apart from those mentioned in the certificate, have been made only by an account payee cheque/draft. In this case, the auditor should give a note in the report that it has not been possible for him to verify, whether the payment in excess of `10,000/- in aggregate have been made otherwise than by account payee cheque or bank draft as the necessary evidence was not in the possession of the management.

(ix) **Provision for Payment of Gratuity [Clause 21(e)]**
- Obtain from the assessee the following documents:
  (i) the trust deed of the gratuity fund.
  (ii) the order of the Commissioner of Income Tax granting approval for the gratuity fund and the date from which it is effective.
  (iii) the rules of the gratuity fund.
(iv) the calculation of contributions to the gratuity fund done as per the rules of the gratuity fund.

Check with reference to the above mentioned documents whether the provision has been made for contribution to a recognised gratuity fund.

- Details of provision for payment of gratuity should be furnished in the following format:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Voucher No.</th>
<th>Date</th>
<th>Amount</th>
<th>Nature</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td></td>
<td></td>
<td>Provision for contribution to an approved gratuity fund</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
<td></td>
<td></td>
<td>Provision for contribution to an unapproved gratuity fund</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td></td>
<td></td>
<td></td>
<td>Provision for gratuity accrued but not due</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td></td>
<td></td>
<td></td>
<td>Provision for gratuity accrued and due</td>
<td></td>
</tr>
</tbody>
</table>

- Check that the provisions made are not in excess of the contribution calculated as per the rules of the gratuity fund.

- Where provision for gratuity is made in respect of what has become due and payable during the relevant years, then check the following:
  (i) the employees in respect of whom the provision has been made have left the services,
  (ii) the calculation of amount payable.

Disclosure in this clause should be done in the following manner--
  (i) provision made for payment of gratuity to an approved gratuity fund covered under section 40A(7),
  (ii) provision for payment of gratuity that has become due and payable during the year under audit,
  (iii) other provisions.

- Review the staff related accounts or provision account to ascertain whether any provision has been made for payment of gratuity. Check whether such provision is allowable as per section 40A(7).

- Where there is made any contribution to an approved gratuity fund, review the following:
  - Proof as to deposit of the contribution amount;
  - Review the copy of the trust deed and ensure that the gratuity fund is approved. See the copy of the letter of the concerned authority approving the fund. Ensure that the approval is in force during the year.
Any Sum Paid by Assessee as Employer Not Allowable Under Section 40A(9) [Clause 21(f)]
- Obtain from the assessee particulars of all payments made towards the setting up or formation of or contribution to any fund, trust, company AOP, BOI, etc., in the capacity of employer and debited to the Profit and Loss Account.
- The following payments which are not disallowable under section 40A(9) should be identified in the particulars furnished by the assessee:
  (i) Payment to recognised provident fund
  (ii) Payment to approved gratuity fund
  (iii) Payment to approved superannuation fund
  (iv) Payment as required under any other law
- Check the ledger accounts for staff welfare, donations, contribution to provident fund, gratuity and miscellaneous expenses to see if there are payment of the type referred to in section 40A(9). Make sure that all these payments have been included in the particulars furnished by the auditee. Check whether any such payment is allowable as per section 40A(9) or not. If not, then indicate the amount involved.
- Also scrutinise the staff welfare and the related account to check whether any such payment is included therein.
- Other payments made as per the particulars furnished by client should also be stated under this clause.

Contingent Liabilities [Clause 21(g)]
- Obtain a schedule indicating contingent liabilities being debited to profit and loss account.
- Scrutinise the correspondence relating to cases pending in courts of law.
- If particulars relating to contingent liabilities are not available then a suitable note should be given under this clause.
- The reporting should be done in the following format:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Nature of claim</th>
<th>Year in which claim raised</th>
<th>Total amount</th>
<th>Amount debited to P&amp;L A/c</th>
<th>Reasons for debit</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- Refer relevant accounting standard to determine what constitutes a contingent liability.
- Ask the assessee whether there is any liability of disputed and contingent nature which has been debited to profit and loss account not treated as contingent liability. In such cases the assessee treats the liability as of permanent nature and debit it to the profit and loss account, but in fact the liability is of contingent nature.
(xii) **Expenditure Inadmissible Under Section 14A [Clause 21(h)]**
- Check whether the total income of the assessee includes any income which is exempt from tax.
- Check whether the assessee has claimed any expenses against such income.
- Scrutinize expense accounts particularly interest account to check whether there is included any expense which is relatable to exempt income. If yes, note down the amount and mention against this clause.

(xiii) **Amount Inadmissible Under Proviso to Section 36(1)(iii) [Clause 21(i)]**
- Check whether the assessee has undertaken any expansion of business or profession for which any new asset has been acquired.
- Check whether the assessee has borrowed any capital for such purpose.
- Check whether the assessee has debited any interest on capital borrowed for acquisition of new asset for extension of the existing business or profession for any period beginning from the date on which the capital was borrowed and ending on the date on which such asset was first put to use, to the profit and loss account.
- In that case the amount of interest so debited will be inadmissible under proviso to section 36(1)(iii).

**Illustration**

Ploy Ltd., engaged in the leasing of goods carriage, appointed you as the tax auditor for the financial year 2018-19. How would you deal with the following payments to Mr. X, Mr. Y and Mr. Z (engaged in leasing of goods carriage) relating to the leasing transactions in your tax audit report:

(i) Payments of 6 invoices of ₹ 5,000 each made in cash to Mr. X on 4th July, 2018.
(ii) Payments of 2 invoices of ₹ 18,000 each made in cash to Mr. Y on 5th July, 2018 and 6th July, 2018 respectively.
(iii) Payment of ₹ 40,000 made in cash to Mr. Z on 7th July, 2018 against an invoice for expenses booked in 2017-18.

**Solution**

**Reporting of Payments Exceeding ₹ 35,000 in Cash:** Disallowance under section 40A(3) of the Income Tax Act, 1961 is attracted if the assessee incurs any expenses in respect of which payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on bank or account payee draft, exceeds ₹ 10,000. However, in case of payment made for plying, hiring or leasing of goods carriage, limit is ₹ 35,000 instead of ₹ 10,000.

Further, as per section 40A(3A) of the Income Tax Act, 1961, where an allowance has been made in the assessment for any year in respect of any liability incurred by the assessee for any expenditure and subsequently during any previous year the assessee makes payment in
respect thereof, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, the payment so made shall be deemed to be the profits and gains of business or profession and accordingly chargeable to income-tax as income of the subsequent year if the payments made to a person in a day, exceeds ₹ 10,000 (₹ 35,000 in case of plying, hiring or leasing of goods carriages).

However, exemption is provided under Rule 6DD having regard to nature and extent of banking facilities available and other relevant factors.

Subsequently, under clause 21(d)(A) and 21(d)(B) of Form 3CD, the tax auditor has to scrutinize on the basis of the examination of books of account and other relevant documents/evidence, whether the expenditure covered under section 40A(3) and 40A(3A) respectively read with rule 6DD were made by account payee cheque drawn on a bank or account payee bank draft. If not, the same has to be reported under abovementioned clauses.

Therefore, as per the provisions and explanations discussed above, the given cases are dealt as under-

(i) Payments of 6 invoices of ₹ 5,000 each aggregating ₹ 30,000 made in cash on 4th July, 2018 need not be reported as the aggregate of payments do not exceed ₹ 35,000.

(ii) Payments of 2 invoices of ₹ 18,000 each made in cash on 5th July, 2018 and 6th July, 2018 respectively aggregating ₹ 36,000 need not be reported as the payment do not exceed ₹ 35,000 in a day.

(iii) Payment of ₹ 40,000 made in cash against an invoice for expenses booked in 2017-18 is likely to be deemed to be the profits and gains of business or profession under section 40A(3A) of the Income Tax Act, 1961. Thus, the details of such amount needs to be furnished under clause 21(d)(B) of Form 3CD.

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

The tax auditor is required to state the amount of interest inadmissible under section 23 of the Micro, Small and Medium Enterprises Development Act, 2006. The Micro, Small and Medium Enterprises Development Act, 2006 (MSME Act) is an Act to provide for facilitating the promotion and development and enhancing the competitiveness of micro, small and medium enterprises and for matters connected therewith or incidental thereto.

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

The tax auditor while reporting in respect of clause 22 should take the following steps:

(a) The auditor should seek information regarding status of the enterprise i.e. whether the same is covered under the Micro, Small and Medium Enterprises Development Act, 2006.
(b) Since Section 22 of the Micro, Small and Medium Enterprises Development Act, 2006 requires disclosure of information; the tax auditor should cross check the disclosure made in the financial statements.

(c) Obtain a full list of suppliers of the assessee which fall within the purview of the definition of “Supplier” under section 2(n) of the Micro, Small and Medium Enterprises Development Act, 2006. It is the responsibility of the auditee to classify and identify those suppliers who are covered by this Act.

(d) Review the list so obtained.

(e) Verify from the books of account whether any interest payable or paid to the buyer in terms of section 16 of the MSME Act has been debited or provided for in the books of account.

(f) Check the computation of interest and verify the interest payable or paid as mentioned above on test check basis.

(g) If on test check basis, the auditor is satisfied, then the amount so debited to the profit and loss account should be reported under clause 22.

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

**Audit checklist for practical understanding:**

<table>
<thead>
<tr>
<th>Obtain the following information--</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) the principal amount and the interest due thereon (to be shown separately) remaining unpaid to any supplier as at the end of each accounting year;</td>
</tr>
<tr>
<td>(ii) the amount of interest paid by the buyer in terms of section 16 along with the amounts of the payment made to the supplier beyond the appointed day during each accounting year;</td>
</tr>
<tr>
<td>(iii) the amount of interest due and payable for the period of delay in making payment (which have been paid but beyond the appointed day during the year) but without adding the interest specified under the Act;</td>
</tr>
<tr>
<td>(iv) the amount of interest accrued and remaining unpaid at the end of each accounting year; and</td>
</tr>
<tr>
<td>(v) the amount of further interest remaining due and payable even in the succeeding years, until such date when the interest dues as above are actually paid to the small enterprise, for the purpose of disallowance as a deductible expenditure under section 23.</td>
</tr>
</tbody>
</table>
Clause 23: Particulars of payments made to persons specified under section 40A(2)(b).

Section 40(A)(2) provides that expenditure for which payment has been or is to be made to certain specified persons listed in the section may be disallowed if, in the opinion of the Assessing Officer, such expenditure is excessive or unreasonable having regard to:

(i) the fair market value of the goods, services or facilities for which the payment is made; or

(ii) for the legitimate needs of business or profession of the assessee; or

(iii) the benefit derived by or accruing to the assessee from such expenditure.

Further, proviso to section 40A(2)(a) provides that no disallowance on account of any expenditure being excessive or unreasonable having regard to the fair market value, shall be made in respect of a specified domestic transaction referred to in section 92BA, if such transaction is at arm’s length price as defined in clause (ii) of section 92F.

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

(a) Obtain full list of specified persons as contemplated in this section.

(b) Obtain details of expenditure/payments made to the specified persons.

(c) Scrutinise all items of expenditure/payments to the above persons.

(d) It may be difficult to locate all such payments and it may also involve a time consuming effort. It is, however, possible to localise the area of enquiry.

Audit checklist for practical understanding:

- Obtain a schedule indicating--
  - Name of the persons specified in section 40A(2)(b);
  - Details of payment made to such persons.

The statement should be furnished as under:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Name of person</th>
<th>Relationship with assessee</th>
<th>Amount</th>
<th>Account head</th>
<th>Nature of Expenditure</th>
<th>Voucher No.</th>
<th>Date</th>
</tr>
</thead>
</table>

It may be noted that in the aforesaid statement, a complete list of persons specified in section 40A(2)(b)(i) should be furnished even where no payment is made to them.

The details of concerns in which any of the persons specified in section 40A(2)(b)(i) has substantial interest should be furnished as under:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Name of person</th>
<th>Name of concern</th>
<th>Nature of interest</th>
<th>Quantum of interest</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Like percentage of shareholding/share in profits</td>
</tr>
</tbody>
</table>
- Check the particulars with the vouchers and books of account.
- Scrutinise the personal accounts in ledger to identify whether they include the account of any specified persons as per the list given by the client.
- Scrutinise the pay roll to see if any of the specified persons are employed by the assessee.
- Scrutinise the ledger accounts of parties with whom contracts for supply of goods and services have been entered into by the assessee.
- Obtain management representation indicating the payment made to related persons and nature of payment.
- In the case of a company, ascertain whether any director or employee of the company has a substantial interest in the company. In that case salary and other payment made to such persons would also have to be indicated.
- Where the transactions are voluminous or the list contains several names, scrutiny to be made to the extent possible. In that case reliance may be made on the information supplied by the client with adequate disclosures in the report.
- Also ask the assessee to furnish details as to payments made to specified persons for services and facilities including purchases.

**Illustration**

An assessee has paid Rent to his brother ₹ 2,50,000/- and paid interest to his sister ₹ 4,00,000. State the reporting requirements in the Tax Audit Report.

**Solution**

**Payment of Rent and Interest:** A tax auditor has to report under Clause 23 of Form 3CD which deals with the particulars of payments made to persons specified under Section 40A(2)(b) of the Income Tax Act, 1961. Where the assessee is an individual, the specified persons include any relative of the assessee (i.e. Husband, Wife, Brother, Sister or any other Lineal Ascendant or Descendant).

In the present case, an assessee has paid rent to his brother ₹ 2,50,000 and interest to his sister of ₹ 4,00,000 which may be disallowed if, in the opinion of the Assessing Officer, such expenditure is excessive or unreasonable having regard to:

1. the fair market value of the goods, services or facilities for which the payment is made;
   or
2. for the legitimate needs of business or profession of the assessee; or
3. the benefit derived by or accruing to the assessee from such expenditure.

Hence this fact needs to be reported in the Tax Audit Report accordingly.
• **Clause 24: Amounts deemed to be profits and gains under section 32AC, 32AD, 33AB or 33ABA or 33AC.**

Section 32AC allows deduction @ 15% in respect of Investment in new Plant & Machinery to a company which is engaged in the business of manufacture or production of any article or thing and who acquires and installs new asset after the 31st day of March, 2013 but before the 1st day of April, 2015 and the aggregate actual cost of such new assets exceeds one hundred crore rupees. The Finance Act, 2014 has amended section 32AC w.e.f. financial year 2014-15. The investment limit in the plant and machinery has been reduced to ₹ 25 crores from ₹ 100 crores. The auditor is required to report the deemed income chargeable as profits and gains of business under the circumstances specified in sub sections (2) of section 32AC. Only because section 32AC(2) provides for chargeability of deemed income under the head “profit and gains from business or profession” in addition to taxability of capital gains, the auditor is not required to report any capital gains/losses arising on transfer on the said asset. The tax auditor will be required to verify the compliance to the conditions of the provisions of section 32AC and report the claim of deduction accordingly.

**Audit checklist for practical understanding:**

- Obtain from assessee details as to deemed profits under section 32AC.
- Obtain from the assessee the details regarding Deposit Account, Site Restoration Account and Reserve account for shipping business.
- Verify the accuracy of details given by the assessee by scrutinizing the books of account and other relevant documents or evidence.
- Make sure that asset acquired through deposit account is sold or transferred before expiry of eight years from the date of acquisition.
- Verify the manner of utilisation of amount withdrawn from the specified reserve account.
- Make a reference to the relevant sections to ascertain as to when any profit is deemed under such sections.
- Check whether any such event took place due to which profits are to be deemed under these sections in case of the assessee. If yes, then check that the profit amount is determined as per the requirement of the relevant sections.
- Obtain a Schedule indicating the amount deemed as profit and gains under the relevant sections.
- Review all the related accounts to ascertain that the profits are properly accounted for.

**Note:** No deduction is allowable under section 33AC from the assessment year 2018-19.
• Clause 25: Any amount of profit chargeable to tax under section 41 and computation thereof.

The tax auditor should obtain a list containing all the amounts chargeable under section 41 with the accompanying evidence, correspondence, etc. He should in all relevant cases examine the past records to satisfy himself about the correctness of the information provided by the assessee. The tax auditor has to state the profit chargeable to tax under this section. This information has to be given irrespective of the fact whether the relevant amount has been credited to the profit and loss account or not. The computation of the profit chargeable under this clause is also to be stated.

The tax auditor should maintain the following in his working papers for the purpose of furnishing details required in the format provided in the e-filing utility:

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Name of person</th>
<th>Amount of income</th>
<th>Section</th>
<th>Description of transaction</th>
<th>Computation if any</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>6</td>
</tr>
</tbody>
</table>

Audit checklist for practical understanding:

- Obtain a schedule indicating amount of profit chargeable to tax under section 41.
- In order to provide information required under clause 25 it is necessary that past income-tax records of the assessee be examined in order to ascertain the amount for which deduction was allowed.
- Obtain copies of at least three years’ profit and loss account and see whether any bad debts have been written off during such years. Also see the list of parties in case of which bad debts were written off. If the parties are still dealing with the concern, check that the amount received from such parties match with the bills. If any payment is not against bill, it might have been received against bad debts written off.
- In case the assessee is engaged in the scientific research then check whether an asset representing capital expenditure on scientific research, within the meaning of section 35(1)(iv) or 35(2B)(c), is sold without having been used for other purposes and the proceeds of the sale together with the total amount of deductions made under section 35(2)(i) or 35(2)(ia) or 35(2B)(c) exceed the amount of the capital expenditure. If yes, then the excess so realised will be charged to tax.
- Inquire whether the assessee has received during the year, any amount towards an allowance or deduction, made in the assessment for any previous year. If yes, then the same in taxable.
Clause 26: In respect of any sum referred to in clause (a), (b), (c), (d), (e), (f) or (g) of section 43B, the liability for which:

(A) pre-existed on the first day of the previous year but was not allowed in the assessment of any preceding previous year and was

(a) paid during the previous year;
(b) not paid during the previous year;
(B) was incurred in the previous year and was

(a) paid on or before the due date for furnishing the return of income of the previous year under section 139(1);
(b) not paid on or before the aforesaid date.

(State whether sales tax, customs duty, excise duty or any other indirect tax, levy, cess, impost etc. is passed through the profit and loss account.)

In the case of an assessee maintaining its accounts on the mercantile system, the tax auditor should verify the aforesaid particulars of section 43B from the books of account for the year under audit, books of account of the immediately succeeding assessment year and return of income for the earlier assessment years so that the information about the aforesaid payments made in the subsequent year can be furnished.

The tax auditor, in his tax audit report, should clearly distinguish the liability incurred during the previous year in respect of all the specified sums referred to in clauses (a) to (g) from the liability that pre-existed on the first day of the relevant previous year.

In some cases the tax auditor may find amounts of the nature referred to in section 43B being credited to the profit and loss account although the relevant provisions for such liability had not been allowed as a deduction in any previous year in view of the specific provisions of section 43B requiring actual payment as a condition precedent to allowance. The amounts so credited to the profit and loss account are not chargeable to tax since the conditions referred to in section 41(1) have not been satisfied. The tax auditor should identify such items and maintain the same in his working papers.

Audit checklist for practical understanding:

- Obtain from the assessee the particulars as to tax, duty, cess, fee, other sum, the amount paid and the amount provided for.
- Identify the following kind of taxes, duties and other sums covered by section 43B:
  (i) Fees
  (ii) Cesses
iii) Contribution to any other fund for welfare of employees
(iv) Contribution to gratuity fund
(v) Contribution to superannuation fund
(vi) Contribution to provident fund
(vii) Municipal or local taxes
(viii) Sales-tax
(ix) Excise duty
(x) Other taxes under any law
(xi) Interest on any loan or borrowing from any financial institution or a state financial corporation or a state industrial investment corporation.
(xii) Interest on any loan or borrowing from a scheduled bank. [Effective from assessment year 1997-98]

- Verify the payments with challans or receipts.
- Check the ledger accounts of the above mentioned taxes, duties, etc., to verify the correctness of particulars furnished by the assessee.
- Where the assessee claims that any sum payable in terms of clause (a) to (g) of section 43B has been paid before the due date for furnishing return of income, check the payment with the supporting document.
- Ascertain the method of accounting followed by the assessee. Where mercantile system of accounting is followed, then see whether a part of the amount debited in profit and loss account has not been paid during the relevant year. In case of cash system of accounting there will be no question of any amount being debited to the Profit and Loss Account which has not been paid during the previous year.
- Obtain a schedule showing the following information in respect of amount referred to in clauses (a) to (g) of section 43B--
  - liability existed at the beginning of the year;
  - Amount paid towards such liability during the year and also the amount not so paid. Obtain payment challan from assessee regarding payment of taxes, fees etc., if any.
  - Amount incurred during the previous year, amount paid during the previous year, amount remaining unpaid as at the end of the previous year, amount paid before the due date of furnishing of return and amount remaining unpaid as on that date.
In case there is any pre-existed liability in respect of sum specified in section 43B [clauses (a) to (g)] then trace the date of origin of such liability through preceding years record and find out whether such liability was allowed in the past or not. For this purpose check preceding year’s assessment return, such liability can also be determined from the tax audit for the previous year.

Obtain a list indicating name of the employees and corresponding sum payable by an assessee as an employer for contribution to provident fund or gratuity fund or superannuation fund or any other fund for the welfare of such employees.

• **Clause 27(a): Amount of Central Value Added Tax/GST credits availed of or utilized during the previous year and its treatment in the profit and loss account and treatment of outstanding Central Value Added Tax/GST credits in the accounts.**

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

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

The tax auditor should maintain the following information in his working papers for the purpose of reporting in the format provided in the e-filing utility:

<table>
<thead>
<tr>
<th>CENVAT/GST</th>
<th>Amount</th>
<th>Treatment in Profit &amp; Loss Accounts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Opening balance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CENVAT/GST Availed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CENVAT/GST utilized</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Closing / outstanding</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Balance</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

• **Clause 27(b): Particulars of income or expenditure of prior period credited or debited to the profit and loss account.**

It may be noted that information under this clause would be relevant only in those cases where the assessee follows mercantile system of accounting. Under cash system of
accounting, expenses debited/ income credited to the profit and loss account would be current year’s expenses/income even though they may relate to earlier years. The tax auditor should obtain the particulars of expenditure or income of any earlier year debited or credited to the profit and loss account of the relevant previous year when mercantile system of accounting is followed. In the case of a person whose accounts of the business or profession have been audited under any other law, the information may be available from annual accounts. In the case of a person who carries on business or profession but who is not required by or under any other law to get his accounts audited, however, a close scrutiny of the ledger in regard to the period for which expenditure or income is entered in the account books may be necessary.

The tax auditor should maintain the following information in his working papers file for the purpose of reporting in the format provided in the e-filing utility:

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Type</th>
<th>Particulars</th>
<th>Amount</th>
<th>Prior Period to which it relates (Year in yyyy-yy format)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>

Audit checklist for practical understanding:

(i) CENVAT Credits [Clause 27(a)]

- The auditor should check records related to CENVAT/GST.
- The auditor shall go through relevant records to find out details regarding CENVAT/GST credit available/receivable, treatment of CENVAT/GST credit availed during the year and the CENVAT/GST credit outstanding at the year end.
- Check the CENVAT/GST receivable account and collect the following information therefrom--
  - Opening balance;
  - CENVAT/GST credit availed of during the year;
  - CENVAT/GST credit utilised during the year;
  - Treatment of both the above in the profit and loss account and also the treatment of CENVAT/GST credit outstanding at the year end.
- Ask the assessee to furnish details as to accounting policy followed in respect of CENVAT/GST. See that such policy is in consonance with the Guidance Note issued by the ICAI on Accounting for CENVAT/GST.
(ii) Expenditure/Income of Earlier Years Debited/ Credited in Current Year

[Clause 27(b)]

GetSize

Ask the assessee to furnish a schedule indicating particulars of expenditure/income of any earlier year debited/credited to the Profit & Loss account of the relevant previous year.

GetSize

Verify various expenses account to see whether any expenditure pertaining to any earlier year has been debited to the profit and loss account. For example, an assessee might have paid some certification fee etc., for four years in the year under audit. In that case payment of expenses for previous three years would be prior period payment.

GetSize

Also see that all such items are properly disclosed.

GetSize

Check while conducting the routine audit, that there is no expenditure/income relating to earlier years that has not been mentioned in the particulars furnished by the assessee.

GetSize

In case of cash system of accounting, there will be no amount to be disclosed under this head.

• Clause 28: Whether during the previous year the assessee has received any property, being share 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), if yes, please furnish the details of the same.

Audit checklist for practical understanding :

(a) Check whether during the previous year the assessee has received any property, being share 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) if yes, note down the details of the same.

(b) Obtain from the auditee, a list containing the details of shares received, if any, by him from any other company and verify the same from the books of accounts and other relevant documents.

(c) Check books of accounts with reference to investments or stock in trade.

(d) In case such shares are received without consideration, the same may not be reflected in the books of accounts. Such shares may be verified from the relevant documents such as share certificates issued, if any, demat account statement etc.

(e) Consider the provisions of Rule 11UA(1)(c).

Note: Students may note that Section 56(2)(viia) is applicable on or after the 1st day of June, 2010 but before the 1st day of April, 2017.
• Clause 29: Whether during the previous year the assessee received any consideration for issue of shares which exceeds the fair market value of the shares as referred to in section 56(2)(viib), if yes, please furnish the details of the same.

Clause 29A: (a) Whether any amount is to be included as income chargeable under the head ‘income from other sources’ as referred to in clause (ix) of sub section (2) of section 56

(b) If yes, Please Furnish Following Details

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Nature of Income</th>
<th>Amount thereof</th>
</tr>
</thead>
</table>

A new clause 29A has been inserted, requiring disclosure of whether any amount is chargeable to tax under section 56(2)(ix), and if so, to furnish prescribed details of such income. It provides for taxability as Income from Other Sources of any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset, if such sum is forfeited and the negotiations do not result in transfer of such capital asset.

The reporting is required is any such amount is to be included as income chargeable under the head “Income from Other Sources”, then Nature of Income and amount thereof are required to be furnish.

Prior to such amendment, section 51 provided for deduction of such amount forfeited from the cost or written down value of the asset. Section 51 has now been amended to provide that any amount taxed under section 56(2)(ix) shall not be deducted from the cost or written down value.

Section 56(2)(ix): any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset, if, —

(a) such sum is forfeited; and

(b) the negotiations do not result in transfer of such capital asset;

Clause 29B: (a) Whether any amount is to be included as income chargeable under the head ‘income from other sources’ as referred to in clause (x) of sub section (2) of section 56

(b) If yes, Please Furnish Following Details

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Nature of Income</th>
<th>Amount</th>
</tr>
</thead>
</table>
Section 56(2)(x) was introduced by the Finance Act 2017, and it applies to amounts or assets received on or after 1st April 2017, it effectively applies with effect from assessment year 2018-19.

Section 56(2)(x): where any person receives, in any previous year, from any person or persons on or after the 1st day of April, 2017,—

(a) any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum;

(b) any immovable property,—

(A) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;

(B) for a consideration, the stamp duty value of such property as exceeds such consideration, if the amount of such excess is more than the higher of the following amounts, namely:—

(i) the amount of fifty thousand rupees; and

(ii) the amount equal to five per cent of the consideration:

(c) any property, other than immovable property,—

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

(B) 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.

Audit checklist for practical understanding:

Clause 29

(a) This provision is applicable where a company has issued shares during the year. This can be checked from the Financial Statements/Share Register/ MCA records etc. Check whether during the previous year the assessee received any consideration for issue of shares which exceeds the fair market value of the shares as referred to in section 56(2)(viib); if yes, note down the details of the same.

(b) Section 56(2)(viib) is applicable to companies in which public is not substantially interested, therefore, reporting under this clause is to be done only for corporate assessees.
(c) Obtain from the auditee, a list containing the details of shares issued, if any, by him to any person being a resident and verify the same from the books of accounts and other relevant documents.

(d) Check the provisions of Rule 11UA(1)(c)(a).

(e) The tax auditor should obtain a certificate from the assessee regarding any such receipts during the year, either received in his business or profession or recorded in the books of account of such business or profession. He should also scrutinise the books of account to verify whether receipt of any such amount or asset has been recorded therein.

(f) In case of other assets, the provisions of rule 11UA(1) read with rule 11U are to be followed for determination of the fair market value, to compute the income under this section.

(g) Wherever there is a dispute or doubt as to the valuation of an asset, it would be advisable for the tax auditor to request the assessee to obtain a valuation report from a registered valuer. The report of the tax auditor may then be based on such valuation report.

Clause 29A –
- Obtain a certificate from the assessee regarding all such advances received towards transfer of capital assets which have forfeited during the year.
- Examine whether any amount of such advances has been written back during the year and examine the basis of such write back to determine whether such write back was on account of an act of forfeiture.
- Verify the terms of contract to check the conditions to forfeit of such advance and such conditions have occurred, then should verify whether the amount has been actually forfeited.

Clause 29B –
- Obtain a certificate regarding any such receipts during the year.
- If there is a dispute or doubt as to the valuation of an asset, it would be advisable for the tax auditor to request the assessee to obtain a valuation report from a registered valuer.
- In a case assessee has disputed the stamp duty value before the stamp authorities, and such dispute is pending as on the date of finalisation of the audit, the tax auditor should state such fact.

Question 1: Company has received an advance for capital asset and the same is outstanding for 5 years as of 31 March 2018. What would be tax auditor reporting responsibility?
Answer: The requirement of reporting arises only on forfeiture of such amount. If an advance has been received and has been outstanding for a considerable period of time, there is no requirement to report such amount unless and until it is forfeited by an act of the assessee under clause 29A.

Question 2: If an assessee has forfeited the amount without right of forfeiture as per agreement, then can it become income under section 56(2)(ix) and reportable under clause 29A?

Answer: If the assessee has forfeited the amount without right to forfeit and in case there is no action by the other party, the amount so forfeited may become income under sub clause (ix) and the tax auditor should report such forfeiture with appropriate note under clause 29A.

Question 3: If an assessee has not forfeited the amount even though the conditions of forfeiture is applicable as per contractual terms, will it become income under section 56(2)(ix) and reportable under clause 29A?

Answer: If the assessee contends that the amount has not been forfeited, the tax auditor needs to look at all facts of the case and may obtain a management representation that even though the contract permits forfeiture on some conditions and even though such conditions have occurred, the assessee has not yet forfeited the advance and other sums received.

**Clause 30:** Details of any amount borrowed on hundi or any amount due thereon (including interest on the amount borrowed) repaid, otherwise than through an account payee cheque. [Section 69D].

**Audit checklist for practical understanding:**

- Obtain from the assessee particulars of any amount borrowed on hundi or any amount due thereon, including interest on the amount borrowed or repaid otherwise than by an account payee cheque.

- Check whether any such repayment/ payment has been made otherwise than by an account payee cheque. If yes, then list out the amount involved on a transaction-to-transaction basis indicating date of payment and mode of payment.

- Obtain management representation that there has not been made any repayment of amount borrowed on hundi or payment of interest in respect thereof otherwise than by account payee cheque.

- Give a note suggested by ICAI that it is not possible for the tax auditor to verify whether the amounts borrowed on hundi or any amount due thereon (including interest on the amount borrowed) were repaid otherwise than by an account payee cheque, as the necessary evidence is not in the possession of the assessee.

Details of amount borrowed on a hundis and details of payment should be furnished as under:
Check the above particulars with the books of account.

30A. (a) Whether primary adjustment to transfer price, as referred to in sub-section (1) of section 92CE, has been made during the previous year? (Yes/No)

(b) If yes, please furnish the following details:-

(i) Under which clause of sub-section (1) of section 92CE primary adjustment is made?

(ii) Amount (in ₹) of primary adjustment:

(iii) Whether the excess money available with the associated enterprise is required to be repatriated to India as per the provisions of sub-section (2) of section 92CE? (Yes/No)

(iv) If yes, whether the excess money has been repatriated within the prescribed time (Yes/No)

(v) If no, the amount (in ₹) of imputed interest income on such excess money which has not been repatriated within the prescribed time:

A new clause 30A has been introduced, requiring reporting of primary adjustments and various other details, for the purpose of making secondary adjustments under section 92CE. Section 92CE, providing for secondary transfer pricing adjustments, has been introduced by the Finance Act 2017, with effect from assessment year 2018-19.

The section requires making of a secondary adjustment in certain cases where primary transfer pricing adjustments have been made. These cases are where transfer pricing adjustment has been:

i. made by the taxpayer of his own accord in his return of income;

ii. made by the assessing officer and accepted by the taxpayer;

iii. determined under an Advance Pricing Agreement entered into by the assessee under section 92CC;

iv. made as per Safe Harbour Rules framed under section 92CB; or
v. arising as a result of a resolution of an assessment under Mutual Agreement Procedure under a double taxation avoidance agreement (DTAA) entered into under section 90 or 90A.

No secondary adjustment is required if the amount of primary adjustment made in any previous year does not exceed ₹ 1 crore.

Due to the primary adjustment, if there is an increase in the total income or a reduction in the loss of the assessee, the adjustment (difference between the arm’s length price and the actual transaction price) is regarded as excess money available with the associated enterprise, and is to be repatriated to India within the prescribed time. Rule 10CB provides for a time limit of 90 days for repatriation of the excess money. Where the excess money is not repatriated to India within the prescribed time, it is deemed as an advance to the associated enterprise and interest is to be computed on such advance in the prescribed manner, as a secondary adjustment.

Secondary adjustments are applicable only in respect of transfer pricing adjustments relating to international transactions, and not in respect of domestic transfer pricing adjustments.

Clause 30A requires reporting of whether primary adjustment to transfer price, as referred to in section 92CE(1), has been made during the previous year. Thus the tax auditor is required to verify whether any primary adjustment is ‘made’ in terms of S. 92CE(1) during the previous year under consideration. The primary adjustment made may not necessarily relate to previous year under consideration.

Primary adjustments which do not warrant secondary adjustments should also be reported.

Audit checklist for practical understanding:
- Obtain a certificate from the assessee, as to what transfer pricing adjustments have been made during the previous year so that primary onus should be with the management and then the same should also be verified from the tax records to check whether there is any such occurrence.
- In case any such primary adjustment has taken place, which requires repatriation of the excess money, the tax auditor should verify whether the excess money has been received, and whether it has been received within the prescribed time. The auditor should report accordingly.
- In case the excess money has not been repatriated within the prescribed time, the imputed interest income, which would be the secondary adjustment, needs to be computed. For this purpose, the auditor should ask the taxpayer to obtain certificates of the relevant SBI/LIBOR interest rates, and the computation of the imputed interest income. We should verify the correctness of such calculation of interest, on the basis
of the certificates regarding the SBI/LIBOR rates plus the incremental interest, as per rule 10CB.

For interest income imputed, there is some ambiguity with respect to the date up to which the imputed interest income is to be reported – whether interest income imputed till the end of the previous year is to be reported or whether interest income imputed up to the date of furnishing of Tax Audit Report is to be reported. Since the reporting is for the previous year, it is advisable for the tax auditor to ensure that the amount of interest imputed till the end of the previous year is furnished. In case the interest up to the date of filing of the tax audit report is given, it is advisable for the tax auditor to provide a break-up of the amount of interest imputed till end of the relevant previous year and for the period post the end of the relevant previous year ending with the date of filing tax audit report.

**Clause 30B – Limitation on Interest Deduction**

30B. (a) Whether the assessee has incurred expenditure during the previous year by way of interest or of similar nature exceeding one crore rupees as referred to in subsection (1) of section 94B? (Yes/No)

(b) If yes, please furnish the following details:-

(i) Amount (in ₹) of expenditure by way of interest or of similar nature incurred:

(ii) Earnings before interest, tax, depreciation and amortization (EBITDA) during the previous year (in ₹):

(iii) Amount (in ₹) of expenditure by way of interest or of similar nature as per (i) above which exceeds 30% of EBITDA as per (ii) above:

(iv) Details of interest expenditure brought forward as per subsection (4) of section 94B: A.Y. Amount (in ₹)

(v) Details of interest expenditure carried forward as per subsection (4) of section 94B:

<table>
<thead>
<tr>
<th>Assessment Year</th>
<th>Amount</th>
</tr>
</thead>
</table>

Clause 30B requires reporting for the purposes of examining allowability of expenditure by way of interest in respect of debt issued by a non-resident associated enterprise (“AE”) under section 94B, while computing income under the head “Profits and Gains of Business or Profession”.

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The excess interest is to be computed as the lower of:

<table>
<thead>
<tr>
<th>(i)</th>
<th>Total interest paid or payable in excess of 30% of earnings before interest, taxes, depreciation and amortisation (“EBITDA”) of the borrower in the previous year; or</th>
</tr>
</thead>
<tbody>
<tr>
<td>(ii)</td>
<td>Interest paid or payable to associated enterprises for that previous year.</td>
</tr>
</tbody>
</table>

The excess interest, which is disallowed, is allowed to be carried forward for a period of 8 assessment years following the year of disallowance, to be allowed as a deduction against profits and gains of any business in the subsequent years, to the extent of maximum allowable interest expenditure under this section.

Audit procedures to be performed

The term “debt” is widely defined to mean any loan, financial instrument, finance lease, financial derivative, or any arrangement that gives rise to interest, discounts or other finance charges that are deductible in computation of income chargeable under the head “Profits and Gains of Business or Profession”.

The details of carried forward excess interest are to be given in this clause. This figure is to be computed after reducing the brought forward excess interest allowable as a deduction during the year under audit, or adding the excess interest of the year, as the case may be. The tax auditor should verify the draft computation of income certified by the management, or the tax advisor, as the case may be. For reporting for assessment year 2018-19, this figure would consist only of the excess interest for assessment year 2018-19, if any.

Example:

• The third-party lender and the associated enterprise of the Indian borrower both are non-resident, reporting under clause 30B is applicable.

• The third-party lender is a non-resident but the associated enterprise of the Indian borrower is resident of India, reporting under clause 30B is applicable, even if the associated enterprise is resident, since the lender is a non-resident.

• The lender and the associated enterprise of the Indian borrower both are Indian residents, reporting under clause 30B is not applicable.

• Clause 30C*. (a) Whether the assessee has entered into an impermissible avoidance arrangement, as referred to in section 96, during the previous year? (Yes/No.)

(b) If yes, please specify:—

(i) Nature of impermissible avoidance arrangement:

(ii) Amount (in ₹) of tax benefit in the previous year arising, in aggregate, to all the parties to the arrangement:
*Note: Reporting under Clause 30C has been deferred till 31 March 2020 (Circular No. 9/2019 of the Central Board of Direct Taxes dated 14 May 2019).

- Clause 31 (a)*: Particulars of each loan or deposit in an amount exceeding the limit specified in section 269SS taken or accepted during the previous year:
  
  (i) name, address and permanent account number (if available with the assessee) of the lender or depositor;
  
  (ii) amount of loan or deposit taken or accepted;
  
  (iii) whether the loan or deposit was squared up during the previous year;
  
  (iv) maximum amount outstanding in the account at any time during the previous year;
  
  (v) whether the loan or deposit was taken or accepted by cheque or bank draft or use of electronic clearing system through a bank account;
  
  (v) in case the loan or deposit was taken or accepted by cheque or bank draft, whether the same was taken or accepted by an account payee cheque or an account payee bank draft.

*(These particulars need not be given in the case of a Government company, a banking company or a corporation established by a Central, State or Provincial Act.)*

Section 269SS prescribes the mode of taking or accepting certain loans and deposits. As per this section, no person shall take or accept from any other person any loan or deposit otherwise than by an account payee cheque or account payee bank draft if:

(a) the amount of such loan or deposit or the aggregate amount of such loan and deposit; or

(b) on the date of taking or accepting such loan or deposit, any loan or deposit taken or accepted earlier by such person from the depositor is remaining unpaid (whether repayment has fallen due or not), the amount or the aggregate amount remaining unpaid; or

(c) the amount or the aggregate amount referred to in clause (a) together with the amount or the aggregate amount referred to in clause (b),

is twenty thousand rupees or more.

For the purposes of section 269SS "loan or deposit" means loan or deposit of money.

If the total of all loans/deposits from a person exceed ₹ 20,000 but each individual item is less than ₹ 20,000, the information will still be required to be given in respect of all such entries starting from the entry when the balance reaches ₹ 20,000 or more and until the balance goes down below ₹ 20,000. As such the tax auditor should verify all loans/deposits...
taken or accepted where balance has reached ₹ 20,000 or more during the year for the purpose of reporting under this clause.

- **Clause 31 (b):** Particulars of each specified sum 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 person from whom specified sum is received;
  
  (ii) amount of specified sum taken or accepted;
  
  (iii) whether the specified sum was taken or accepted by cheque or bank draft or use of electronic clearing system through a bank account;
  
  (iv) in case the specified sum was taken or accepted by cheque or bank draft, whether the same was taken or accepted by an account payee cheque or an account payee bank draft.

(Particulars at (a) and (b) need not be given in the case of a Government company, a banking company or a corporation established by the Central, State or Provincial Act.)

- **(ba)** Particulars of each receipt in an amount exceeding the limit specified in section 269ST, in aggregate from a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion from a person, during the previous year, where such receipt is otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account:
  
  (i) Name, address and Permanent Account Number (if available with the assessee) of the payer;
  
  (ii) Nature of transaction;
  
  (iii) Amount of receipt (in ₹);
  
  (iv) Date of receipt;

- **(bb)** Particulars of each receipt in an amount exceeding the limit specified in section 269ST, in aggregate from a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion from a person, received by a cheque or bank draft, not being an account payee cheque or an account payee bank draft, during the previous year:
  
  (i) Name, address and Permanent Account Number (if available with the assessee) of the payer;
  
  (ii) Amount of receipt (in ₹);

- **(bc)** Particulars of each payment made in an amount exceeding the limit specified in section 269ST, in aggregate to a person in a day or in respect of a single transaction or in
respect of transactions relating to one event or occasion to a person, otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year:

(i) Name, address and Permanent Account Number (if available with the assessee) of the payee;

(ii) Nature of transaction;

(iii) Amount of payment (in ₹);

(iv) Date of payment;

• (bd) Particulars of each payment in an amount exceeding the limit specified in section 269ST, in aggregate to a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion to a person, made by a cheque or bank draft, not being an account payee cheque or an account payee bank draft, during the previous year:

(i) Name, address and Permanent Account Number (if available with the assessee) of the payee;

(ii) Amount of payment (in ₹);

(Particulars at (ba), (bb), (bc) and (bd) need not be given in the case of receipt by or payment to a Government company, a banking Company, a post office savings bank, a cooperative bank or in the case of transactions referred to in section 269SS or in the case of persons referred to in Notification No. S.O. 2065(E) dated 3rd July, 2017)”

Section 269ST provides that no person shall receive sum of ₹ 2 lakh or more

a) in aggregate from a person in a day; or

b) in respect of a single transaction; or

c) in respect of transactions relating to one event or occasion from a person otherwise than by an account payee cheque or an account payee demand draft or by use of electronic clearing system through a bank account.

Contravention of section 269ST attracts penalty under section 271DA. The sub-clauses 31(ba), (bb), (bc) and (bd) deal with reporting of transactions of receipts and payments in excess of the specified limit made otherwise than by the modes specified in section 2 section 269ST. Provisions of section 269ST do not apply to receipt by Government, any banking company, post office savings bank or a co-operative bank or transactions of loan or deposit or ₹ specified sum’ referred to in section 269SS. ‘Specified sum’ means any sum of money receivable, whether as an advance or otherwise, in relation to transfer of an immovable property, whether not the transfer takes place. (Refer clause (iv) of the Explanation below section 269SS.)
New sub-clauses have been introduced under Clause 31 which deal with reporting of transactions of receipts and payments in excess of the specified limit made otherwise than by the modes specified in Section 269ST.

The particulars required under these sub-clauses need not be given in case of a receipt by or a payment to a government company, a banking company, a post office savings bank, cooperative bank or in the case of transactions referred to in Section 269SS or in the case of persons referred to in the Notification. Effectively, particulars are not required to be furnished of transactions to which provisions of Section 269ST do not apply. It may be noted that neither Section 269ST nor the notifications issued under this section exclude a government company from the application of the provisions of Section 269ST. However, in view of the note under the sub-clauses, particulars required under these sub-clauses need not be given in case of a government company. On the other hand, provisions of Section 269ST do not apply to any receipt by the government. However, the note under sub clauses does not specifically refer to receipt by or payment to the government. Considering the provisions of Section 269ST, particulars of the payments made to the government need not be included and a suitable note may be given to the effect that details of payments made to government have not been included in the particulars.

Section 269ST does not distinguish between receipt on capital account and revenue account. Similarly, new sub-clauses do not distinguish between receipts and payments on capital account and revenue account. Once the receipt or the payment, as the case may be, exceeds the limit specified, the particulars of such transactions will have to be reported under these clauses.

The tax auditor will need to link all receipts or payments, as the case may be, otherwise than by the modes specified in this section received/made in respect of a single transaction and verify if the aggregate amount exceeds the limits specified in Section 269ST. Whether the receipts or payments, as the case may be, are pertaining to a single transaction or different transaction will depend on the facts of the case. A single invoice may relate to multiple transactions and vice-versa, multiple bills may relate to a single transaction.

If the receipts or payments are otherwise than by account payee cheque or an account payee draft or by use of electronic clearing system through a bank account, then the tax auditor will have to verify the mode of the receipt of payment. The tax auditor will have to classify the receipt or the payment, as the case may be, as under:

- Otherwise than by the cheque or bank draft or use of electronic clearing system through a bank account
- By cheque or bank draft not being an account payee cheque or an account payee bank draft.

Where the receipts or the payments, as the case may be, pertain to a single transaction or
transactions relating to one event or occasion, such receipts/payments may be grouped together while reporting. The tax auditor may also keep in his record date of the receipts and date of the payments reported under, although the same is not required to be reported. Where payment is made by cheque or demand draft, there will be practical difficulties in verifying whether the relevant receipt or payment is by account payee cheque or account payee draft. In such cases, the tax auditor should verify the transactions with reference to such evidence which may be available.

The tax auditor should maintain the specified information in his working papers for the purpose of reporting of receipts.

- **Clause 31 (c):** Particulars of each repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T made during the previous year:
  
  (i) name, address and Permanent Account Number (if available with the assessee) of the payee;
  
  (ii) amount of the repayment;
  
  (iii) maximum amount outstanding in the account at any time during the previous year;
  
  (iv) whether the repayment was made by cheque or bank draft or use of electronic clearing system through a bank account;
  
  (vi) in case the repayment was made by cheque or bank draft, whether the same was taken or accepted by an account payee cheque or an account payee bank draft.

This sub-clause requires particulars of each repayment of loan or deposit in an amount exceeding the limits specified in section 269T made during the previous year. Section 269T is attracted where repayment of the loan or deposit is made to a person, where the aggregate amount of loans or deposits held by such person either in his own name or jointly with any other person on the date of such repayment together with interest, if any, payable on such deposit is ₹ 20,000 or more. The tax auditor should verify such repayments and report accordingly.

- **Clause 31 (d):** Particulars of repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T received otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year:

  (i) name, address and Permanent Account Number (if available with the assessee) of the lender, or depositor or person from whom specified advance is received;

  (ii) amount of loan or deposit or any specified advance received otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year.
• Clause 31 (e): Particulars of repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T received by a cheque or bank draft which is not an account payee cheque or account payee bank draft during the previous year:

   (i) name, address and Permanent Account Number (if available with the assessee) of the lender, or depositor or person from whom specified advance is received;

   (ii) amount of loan or deposit or any specified advance received by a cheque or a bank draft which is not an account payee cheque or account payee bank draft during the previous year.

(Particulars at (c), (d) and (e) need not be given in the case of a repayment of any loan or deposit or any specified advance taken or accepted from the Government, Government company, banking company or a corporation established by the Central, State or Provincial Act).

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

<table>
<thead>
<tr>
<th>Sl No.</th>
<th>Assessment year</th>
<th>Nature of loss / allowance (in rupees)</th>
<th>Amount as returned (in rupees)</th>
<th>Amount as assessed (give reference to relevant order)</th>
<th>Remarks</th>
</tr>
</thead>
</table>

The amount of brought forward loss or depreciation allowance is required to be quantified as per return and assessment orders. A reporting format is prescribed for the sake of standardization.

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

• Clause 32(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.

Section 79 of the Act provides that, notwithstanding anything contained in Chapter VI of the Act, in the case of a company, not being a company in which the public are substantially interested, where a change in shareholding has taken place in a previous year, then no loss incurred in any year prior to the previous year shall be carried forward and set off against the
income of the previous year unless on the last day of that previous year and on the last day of the previous year in which the loss was incurred, the shares of the company carrying not less than 51% of the voting power were beneficially held by the same persons.

• **Clause 32(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.

Section 73 of the Act provides for the treatment of losses in speculation business. Section 73(1) provides that any loss, computed in respect of a speculation business carried on by the assessee, shall not be set off except against profits and gains, if any, of another speculation business.

The tax auditor should maintain the prescribed information in his working papers for the purpose of reporting against this clause in the format provided in the e-filing utility.

• **Clause 32(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.

Section 73A provides for provisions relating to carry forward and set off of losses by specified business. It provides that any loss, computed in respect of any specified business referred to in section 35AD shall not be set off except against profits and gains, if any, of any other specified business.

Under clause 32(d), the tax auditor has to verify from the books of accounts and other relevant documents as to whether the assessee is carrying on specified business as referred to under section 35AD. In case the auditor is of the opinion that the assessee is carrying on such specified business, he has to furnish the details of the loss incurred, if any, in respect of any specified business during the previous year. In case the assessee carries on more than one specified businesses and loss has been incurred in both the business, the details of the loss incurred with respect of each business is to be specified separately.

The tax auditor should maintain the prescribed information in his working papers for the purpose of reporting against this clause in the format provided in the e-filing utility.

• **Clause 32(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.

The Explanation to section 73 provides that where any part of the business of a company (other than a company whose gross total income consists mainly of income which is chargeable under the heads "Interest on securities", "Income from house property", "Capital gains" and "Income from other sources" or a company the principal business of which is the business of trading in shares or banking or the granting of loans and advances) consists in the purchase and sale of shares of other companies, such company shall, for the purposes
of this section, be deemed to be carrying on a speculation business to the extent to which the business consists of the purchase and sale of such shares. The Finance Act, 2014 has amended the explanation to section 73 by deleting the words “the principal business of which is the business of trading in shares” from financial year 2014-2015.

Under this clause, the tax auditor has to furnish the details regarding the speculation losses incurred, if any, as referred in explanation to section 73. The auditor may obtain information in the following format from the assessee and verify the same from the books of account, income tax returns of earlier years and other relevant documents.

The prescribed information so maintained may be used by the tax auditor for the purpose of reporting against this clause in the format provided in the e-filing utility.

**Audit checklist for practical understanding:**

- Obtain a schedule indicating the amount of loss brought forward or any unabsorbed depreciation. Brought forward losses classified as per section involved.

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Assessment Year</th>
<th>Nature of loss/allowance (in ₹)</th>
<th>Amount as returned (in ₹)</th>
<th>Amount as assessed (give reference to relevant order)</th>
<th>Remarks</th>
</tr>
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</table>

- Ensure that the brought forward loss from house property is set off only against the income from house property and no loss is brought forward after expiry of eight assessment years beginning immediately succeeding the assessment year for which the loss was first computed.

- Check in respect of business losses that the same are only in consequence of business or profession and claimed by the person who incurred it and it is not brought forward for a period of more than eight assessment years immediately succeeding the assessment year for which the loss was first computed.

- Ensure that losses of illegal business are not carried forward and if it is claimed to be set off it is only against the income of the same illegal business.

- In case of amalgamation or demerger, verify that accumulated loss and unabsorbed depreciation of amalgamating company is deemed to be the loss of the amalgamated company and the period of eight years for carry forward and set off is reckoned from the assessment year immediately succeeding the assessment year for which the loss was first computed.
- Check in case of demerger that if the accumulated loss or unabsorbed depreciation is not directly relatable to the undertaking the same is apportioned between the demerged company and the resulting company in same proportion in which the value of the assets have been transferred.

- Ensure that losses from the speculation business are claimed to set off only against profits in speculation business and further ensure that loss is not brought forward for more than four years [Eight years upto assessment year 2005-06].

- Ensure that in case of loss under the head capital gains the same is not brought forward for more than eight years beginning from the assessment year immediately succeeding the assessment year for which the loss was first computed.

- Verify that unabsorbed loss from the activity of owning and maintaining race horses is not brought forward for more than four years beginning from the assessment year immediately succeeding the assessment year for which the loss was first computed.

- Check whether the assessee is a company not being a company in which public are substantially interested.
  (i) Check whether there has taken place any change in the shareholding pattern of the company during the previous year.
  (ii) Check whether the company has incurred any loss in any year prior to the previous year under audit. If yes, then ensure that the shares of the company carrying not less than fifty-one per cent of the voting power are beneficially held by persons who beneficially held such shares on the last day of the year or years in which the loss was incurred. Otherwise loss would not be allowed to be carried forward.
  (iii) Ensure that change in shareholding does not take place consequent upon the death of a shareholder or on account of transfer of shares by way of gift to any relative of the shareholder making such gift. In that case section 79 would not apply and hence loss would be allowed to be carried forward.

- Ensure that assessee has filed return within the time allowed under section 139(1), if there is any loss to be brought forward under the head business or profession, capital gain or horse race.

- Check the relevant assessment order to ascertain the amount actually allowed to be brought forward. Also, check the subsequent return to determine whether any set-off claimed/allowed in any subsequent years.

- If the assessment has not been made, check the return for the year in which such loss/depreciation was first claimed to be carried forward. Also, check the subsequent return to determine whether any set-off claimed/allowed in any subsequent years.
• Clause 33: Section-wise details of deductions, if any, admissible under Chapter VIA or Chapter III (Section 10A, Section 10AA).

| 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. |

Tax auditor needs to check claims admissible under Chapter VIA or Chapter III (Section 10A, Section 10AA). If any specified deduction have been claimed then the tax auditor has to check whether the assessee has complied with all the conditions stipulated in provisions of the Act. Also check whether the assessee has filed the required forms to claim deductions as specified in the Act.

Audit checklist for practical understanding:

- Obtain from the assessee all the details of deductions claimed under chapter VI-A and Chapter III (Section 10A and 10AA). Deduction claimed under each section should be checked separately. The details may be obtained in the following manner--

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Section</th>
<th>Qualifying amount, if required</th>
<th>Admissible deduction</th>
<th>Consecutive years from which deduction is claimed, if required</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
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<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

- Ensure that the assessee fulfils all the conditions specified in the sections under which deduction is claimed.
- Deductions are claimed correctly by taking into consideration the status of the assessee.
- Under certain sections deduction is admissible for a limited period as under sections 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID and 80-IE hence the validity of the deduction is to be checked by taking into consideration the scheme of relevant section.
- Some special privileges are given to senior citizens under sections 80D and 80DDB. The tax auditor needs to check that the deduction has been rightly claimed in case of such assessees in order to get maximum benefits.
- Verify the validity of deduction claimed under section 80G by scrutinising the relevant receipts.
- Check the correctness of amount and period of deduction under various sections by scrutinising the books of accounts, and relevant documents if required to be looked into in view of the scheme of the relevant section.
• **Clause 34 (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 please furnish:

| Tax deduction and collection Account Number (TAN) | Section | Nature of payment | Total amount of payment or receipt of the 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 out of (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)*                                                                                                                                       |

*Should be read as (5) for proper reporting

** Should be read as (7) for proper reporting

*** Should be read as (9) for proper reporting

The auditor should obtain a copy of the TDS/TCS returns filed by the assessee and reconcile the same with the books of accounts, which shall form the basis of reporting under this clause, to the extent possible. Further, in view of the voluminous nature of the transactions, the tax auditor can apply test checks and compliance tests on the transactions reported in the TDS return by the assessee for verifying the information required to be provided under this clause.

• **Clause 34 (b)** Whether the assessee has furnished the statement of tax deducted or tax collected within the prescribed time. If not, please furnish the details:

<table>
<thead>
<tr>
<th>Tax deduction and collection Account Number (TAN)</th>
<th>Type of Form</th>
<th>Due date for furnishing</th>
<th>Date of furnishing, if furnished</th>
<th>Whether the statement of tax deducted or collected contains information about all transactions which are required to be reported</th>
<th>If not, please furnish list of details/transactions which are not reported</th>
</tr>
</thead>
</table>

• **Under clause 34(b),** the tax auditor has to ascertain and report as to whether the assessee has furnished the statement of tax deducted or tax collected at source within the prescribed time.
Clause 34(b) also requires the auditor to report the transactions with regard to each TAN for which tax has been deducted but the return has either not been filed or has been filed after the expiry of the prescribed time. With regard to each TAN, the auditor is required to mention the “Type of form” that was applicable like Form 24, 24G, 24Q, 26, 26A, 26B, 26Q etc., due date of furnishing such statement and the actual date of furnishing, if the statement(s) has been furnished. Lastly, the auditor is required to state as to whether the statement of tax deducted or collected, which has been furnished beyond prescribed time contains information about all the transactions which are required to be reported.

The tax auditor will have to identify the transactions in respect of which tax was required to be deducted at source or collected at source and verify whether these transactions have been appropriately reported in the relevant form of the statement of TDS or TCS. Wherever there is a failure to report the transaction in the statement of tax collected or deducted at source the tax auditor will have to report the same.

The auditor may not agree with the interpretation/view taken by the auditee, in such cases, the tax auditor may report about the views as observations in Form 3CA/3CB.

- **Clause 34 (c) Whether the assessee is liable to pay interest under section 201(1A) or section 206C(7). If yes, please furnish:**

<table>
<thead>
<tr>
<th>Tax deduction and collection Account Number (TAN)</th>
<th>Amount of interest under section 201(1A)/206C(7) is payable</th>
<th>Amount paid out of column (2) along with date of payment.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Under this clause, the auditor is required to furnish detailed information in case the assessee is liable to pay interest under section 201(1A) or section 206C(7) of the Act. Section 201(1A) provides for payment of interest at a specified rate in case the tax has not been deducted wholly or partly or after deducting has not been paid to the credit of Central Government as required by the Act. Similarly, section 206C(7) provides for payment of interest at a specified rate in case the tax is not collected wholly or partly or if collected not paid to the credit of the Central Government as required by the Act. The reporting as to whether the assessee is liable to pay such interest, should be in consonance with the reporting under clause 34(a) where the details of non-deduction are required to be reported by him.

**Audit checklist for practical understanding:**

(a) Check whether the assessee has made any payments during the year on which tax is deductible/collectible under Chapter XVII-B/Chapter XVII-BB.

(b) Check whether the tax has been deducted/collected as per rates prescribed under Chapter XVII-B/Chapter XVII-BB.
(c) Ask the assessee, whether he has deducted/collections any tax at source.

(d) Check whether the assessee has deducted/collection tax by the time by which he was required so to do.

(e) If tax is deducted/collection, then enquire whether the same has been deposited with the government in accordance with the requirements of Chapter XVII-B/Chapter XVII-BB. For this purpose see the copy of challan indicating deposit of tax deducted/collection along with the date of deposit.

(f) Obtain from the assessee a statement giving details of tax deducted/collection at source in the following format:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Section</th>
<th>Nature of payment</th>
<th>Total Amount</th>
<th>TDS Amount</th>
<th>Date of Tax deduction</th>
<th>Date of payment to government</th>
</tr>
</thead>
</table>

(g) Check whether the date of deposit falls within the time specified in Chapter XVII-B/Chapter XII-BB read with relevant rule 30.

(h) A tax-auditor should keep in mind laws relating to tax deduction/collection at source and various case law so as to detect any case of contravention or default of the provisions of Chapter XVII-B/Chapter XII-BB, besides giving genuine advice to his clients.

(i) He should see all the accounts of cash, creditors, expenditure accounts such as salary, commission, interest and TDS/TCS account. Besides, he should examine challans, copy of TDS/TCS returns, declaration form for not deducting/collection tax or deducting tax at a lower rate, etc.

(j) Reporting, if any, required under this clause can be done in the format prescribed under the clause itself.

(k) Auditor should go through the books of the assessee and examine whether the assessee have complied and reported all the transactions which are required to be reported as per the provisions of the Act.

- **Clause 35 (a)** In the case of a trading concern, give quantitative details of the principal items of goods traded:

  (i) Opening stock;

  (ii) Purchases during the previous year;

  (iii) Sales during the previous year;

  (iv) Closing stock;

  (v) shortage / excess, if any.
The tax auditor should obtain certificates from the assessee in respect of the principal items of goods traded, the balance of the opening stock, purchases, sales and closing stock and the extent of shortage/excess/damage and the reasons thereof.

- **Clause 35 (b)** In the case of a manufacturing concern, give quantitative details of the principal items of raw materials, finished products and by-products:

<table>
<thead>
<tr>
<th>Raw materials:</th>
<th>Finished products / By-products:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) opening stock;</td>
<td>(i) opening stock;</td>
</tr>
<tr>
<td>(ii) purchases during the previous year;</td>
<td>(ii) purchases during the previous year;</td>
</tr>
<tr>
<td>(iii) consumption during the previous year;</td>
<td>(iii) quantity manufactured during the previous year;</td>
</tr>
<tr>
<td>(iv) sales during the previous year;</td>
<td>(iv) sales during the previous year;</td>
</tr>
<tr>
<td>(v) closing stock;</td>
<td>(v) closing stock;</td>
</tr>
<tr>
<td>(vi) yield of finished products;</td>
<td>(vi) shortage / excess, if any.</td>
</tr>
<tr>
<td>(vii) percentage of yield;</td>
<td></td>
</tr>
<tr>
<td>(viii) shortage / excess, if any.</td>
<td></td>
</tr>
</tbody>
</table>

**Audit checklist for practical understanding:**

- Where the client has not maintained any stock record and has compiled the information from the books of account then this fact must be disclosed in the statement of particulars in Form 3CD.
- Ask whether the assessee maintains stock register.
  
  (a) If not then qualify the report.
  
  (b) If yes, then--
    
    - Cross check the details of opening stock with the details of closing stock disclosed in the preceding previous year. Also match the same details with the audit report of the preceding previous year.
    
    - Ascertain the figures as to purchase, sale during the year and also the closing stock at the year end.
- Ask the assessee to prepare a schedule indicating the opening stock, purchases during the year, sales during the year and closing stock.
- Ascertain whether there is any shortage/excess.
- Obtain a copy of stock statement given to bankers.
- For, yield of finished products; percentage of yield; shortage/excess, if any state that
  the information is given as submitted/ explained by the client.
- Obtain management representation in respect of this clause.

- **Clause 36**: In the case of a domestic company, details of tax on distributed profits
  under section 115-O in the following form:-
  
  (a) total amount of distributed profits;
  (b) amount of reduction as referred to in section 115-O(1A)(i);
  (c) amount of reduction as referred to in section 115-O(1A)(ii);
  (d) total tax paid thereon;
  (e) dates of payment with amounts.

- **Clause 36A**:
  
  (a) Whether the assessee has received any amount in the nature of dividend as
      referred to in subclause (e) of clause (22) of Section 2.
  (b) If yes, please furnish the following details:-

  In order to enable reporting under the new Clause 36A, the tax auditor should obtain from the
taxpayer a certificate containing a list of closely held companies in which he is the beneficial
owner of shares carrying not less than 10 per cent of the voting power and list of concerns in
which he has a substantial interest.

  The tax auditor should also obtain a certificate from the taxpayer giving particulars of any
loans or advances received by any concern in which he has substantial interest from any
closely held company in which he is a beneficial owner of shares carrying not less than 10
per cent voting power.

  These certificates are necessary since the tax auditor may not be able to verify the above
from the books of account of the taxpayer. The tax auditor should include appropriate remarks
of his inability to independently verify the information and reliance on the certificates obtained
from the taxpayer. These remarks may be included in Form No. 3CA/3CB.

  The tax auditor should also verify Form 26AS in the case of the taxpayer to know if the closely
held company has deducted tax at source from any payment made by it to the taxpayer or
the concern under Section 194. This will indicate the view taken by the closely held company
making the payment. The tax auditor may consider the same before coming to a conclusion.

  So far as any payment by the closely held company made on behalf of or for the individual
benefit of the taxpayer is concerned, there may not be any record available for the auditor to
verify the same. In such a case auditor may make appropriate remarks in Form No. 3CA/3CB. It may be noted that if the closely held company has made payment on behalf of or for the individual benefit of the taxpayer in his capacity, say, as the managing director of the closely held company and if such payment has been considered as part of the taxpayer’s remuneration, the same payment is not again chargeable to tax under Section 2(22)(e) and is not required to be reported under this clause.

Whether an amount is chargeable to tax as dividend under Section 2(22)(e) has always been a subject matter of litigation before various judicial forums. The tax auditor needs to consider various issues while reporting under this clause, e.g. wherever the beneficial shareholder is not the registered shareholder and the closely held company has given loan or advance to the beneficial shareholder or to a concern, the tax auditor should make an appropriate remark about the basis of reporting in Form No. 3CA/3CB.

Further, the tax auditor may not be able to determine the accumulated profits of the closely held company making the payment for various reasons. The tax auditor will not have access to the records of such closely held company, the payment would often be during the course of a financial year and accounts will not have been made up as of the date of payment. The tax auditor in such a case may arrive at the accumulated profits by appropriating the profit for the year on a time basis. In such a case the auditor should include appropriate remarks in Form No. 3CA/3CB about the methodology adopted by him.

Business advance or trade advances from closely held companies to the taxpayer or concerns in which the taxpayer has a substantial interest are out of the purview of Section 2(22)(e) and need not be reported dividend under this clause of Form No. 3CD.

The taxpayer or the concern may maintain two accounts of the closely held company in its books of account. Amounts received from the closely held company and the amount receivable from the closely held company may be accounted in two separate accounts. In such a case the tax auditor will have to consider whether, for reporting under this clause only net amount should be considered.

The taxpayer or the concern may have a current account of the closely held company in its books of account. In such a case there could be various transactions accounted for in such a current account. The tax auditor will have to consider if all the transactions in such a current account are on account of normal business transactions or the transactions are in the nature of loans or advances received by the taxpayer or the concern.

It may be noted that any payment made after 1 April 2018 which satisfies the conditions of Section 2(22)(e), would be subject to Dividend Distribution Tax (DDT) under Section 115-O in the hands of the company making the payment and not in the hands of the shareholder.
### Audit checklist for practical understanding:

- This clause applies in case of company assessee only.
- Obtain from the assessee the details regarding the amount distributed as profits, tax on such distributed profits and the relevant dates of their payment with amount.
- See the challan copy to verify the date of payment.
- Check the ledger account of the shareholders so as to verify the correctness of particulars furnished by the assessee.
- Make sure that tax on distributed profits is paid to the credit of the Central Government within fourteen days from the date of declaration of any dividend or distribution of any dividend, whichever is earlier.
- Make sure that no deduction is claimed under any other provision by the company or a shareholder in respect of the amount of tax paid.

### Clause 37: Whether any cost audit was carried out, if yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the cost auditor.

**Audit checklist for practical understanding:**

- Ask from the assessee whether any cost audit was conducted during the year.
- If yes, then take note of any observation in the cost audit report.
- No need to report in case the Cost Audit is ordered but not carried out during the year.
- Collect details if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the cost auditor.

### Clause 38: Whether any audit was conducted under the Central Excise Act, 1944, if yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the auditor.
Audit checklist for practical understanding

Ask from the assessee details of any Excise Audit conducted during the year.

Take note of any observation in the report.

Collect the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the auditor.

Check whether the remarks in excise audit report have any impact on Profit & Loss A/c requiring its disclosure in the tax audit report and having impact on the profitability. For eg. Any unreported sales which have been discovered in the Excise Audit Report and assessee have accepted the same and paid the duty thereon.

Clause 39: Whether any audit was conducted under section 72A of the 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.

Audit checklist for practical understanding:

(i) Tax auditor to take note of the details of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the auditor

The tax auditor should enquire from the management whether any audit was conducted under section 72A of the Finance Act, 1994 and if such audit was carried out, obtain a copy of the report. Even though the tax auditor is not required to make any detailed study of such report, he has to take note of the details of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the auditor. The tax auditor need not express any opinion in case where such audit has been ordered but the same has not been carried out.

(ii) Information about service audit ordered but not completed

In cases where service tax audit which might have been ordered is not completed by the time, the tax auditor should report appropriately in his report stating this fact.
(iii) Information about only such audit covered by the period of tax audit report

The tax auditor should examine the time period for which the service tax audit, if any, has been required to be carried out. Information is required to be given only in respect of such service tax audit report the time period of which falls within the relevant previous year. In effect the information is required to be given in respect of that service tax audit report which is received up to the date of tax audit report.

- Clause 40: Details regarding turnover, gross profit, etc., for the previous year and preceding previous year:

<table>
<thead>
<tr>
<th>Serial number</th>
<th>Particulars</th>
<th>Previous year</th>
<th>Preceding previous year</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Total turnover of the assessee</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Gross profit/turnover</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>Net profit/turnover</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>Stock-in-trade/turnover</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>Material consumed/finished goods produced</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(The details required to be furnished for principal items of goods traded or manufactured or services rendered)

These ratios have to be calculated only for assessees who are engaged in manufacturing or trading activities. Moreover, the ratios have to be given for the business as a whole and need not be given product wise. Further, the ratio mentioned in (5) need not be given for trading concern or service provider.

Audit checklist for practical understanding:

- Determine the different ratios by culling out relevant information from the Manufacturing/Trading and Profit and Loss account.
- There can be different interpretations as to the items involved like gross profit, turnover, stock-in-trade. Place a suitable note explaining the basis adopted.
- Calculate ratios for different business lines separately.
- Ratios need not be calculated product-wise.
- In case of trading concern, no reporting shall be made in respect of Materials Consumed/Finished goods produced.
- Calculation of ratios shall be given along with the computation of key terms.
• Clause 41: Please furnish 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 along with details of relevant proceedings.

The auditee may be assessed under various tax laws other than Income-tax Act, 1961 and Wealth-tax Act, 1956 resulting into a demand order or a refund order. The tax auditor should obtain a copy of all the demand/ refund orders issued by the governmental authorities during the previous year under any tax laws other than Income Tax Act and Wealth Tax Act. The auditor should exercise his professional judgment in determining the applicability to relevant tax laws for reporting under this clause.

It may be noted that even though the demand/refund order is issued during the previous year, it may pertain to a period other than the relevant previous year. In such cases also, reporting has to be done under this clause.

If there is any adjustment of refund against any demand, the auditor shall also report the same under this clause.

Audit checklist for practical understanding:

(i) **Tax auditor to obtain copy of demand/refund order**

The tax auditor should obtain a copy of all the demand/refund orders issued by the governmental authorities during the previous year under any tax laws other than Income Tax Act and Wealth Tax Act. Normally, the Indirect tax laws such as Central Excise Duty, Service Tax, Customs Duty, Value Added Tax, CST, Professional Tax, GST etc would be covered as other tax laws. Hence, the cess or duty like Marketing Cess, Cess on Royalty, Octroi Duty, Entry Tax etc. would not be covered as other tax laws. However, the auditor should exercise his professional judgment in determining the applicability to relevant tax laws for reporting under this clause.

(ii) **Demand/refund order for any year other than previous year**

It may be noted that even though the demand/refund order is issued during the previous year, it may pertain to a period other than the relevant previous year. In such cases also, reporting has to be done under this clause. The tax auditor should verify the books of account and the orders passed by the respective Department for ascertaining whether any such demand has been raised or refund order has been issued under any other tax law and accordingly report the same. If there is any adjustment of refund against any demand, the auditor shall also report the same under this clause as follows:
**Clause 42 (a)** Whether the assessee is required to furnish statement in Form No.61 or Form No. 61A or Form No. 61B? (Yes/No)

(b) If yes, please furnish:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Income Tax Department Reporting entity Identification No.</th>
<th>Type of Form</th>
<th>Due date for furnishing</th>
<th>Date of furnishing, if furnished</th>
<th>Whether the form contains information about all details/transactions which are required to be reported</th>
<th>If not please furnish list of the details/transactions which are not reported</th>
</tr>
</thead>
</table>

Clause 42 has been introduced where the tax auditor has to report that whether the taxpayer is required to furnish a statement of the specified financial transaction (in Form No.61 or Form No. 61A or Form No. 61B).

With respect to Form 61, the tax auditor should verify whether the taxpayer has entered into any transaction where the other party was required to quote PAN. He should verify whether the taxpayer has obtained declaration in Form No. 60 where the other party has not furnished his PAN. Wherever the taxpayer has received declarations in Form No. 60, the auditor should verify if the taxpayer has filed Form No. 61 including therein all the necessary particulars.

With respect to Form 61A, the tax auditor should ascertain whether the taxpayer is required to report any transactions under Section 285BA read with Rule 114E. It may be noted that specified transactions under Section 285BA include the issue of bonds, issue of shares, buy-back of shares by a listed company, etc. These transactions may not happen every year and...
hence special attention should be given in the year when a company taxpayer issues any security or a listed company undertakes buyback of shares.

While verifying the same, the tax auditor should ensure that the provisions of Rule 114E(3) have been properly considered and applied.

Failure to do so may result in a certain transaction not being reported. It may be noted that the payment may be received for various transactions and on different dates, and hence these may not be covered under Section 269ST but will have to be reported under Section 285BA.

With respect to Form 61B, the tax auditor should review the due diligence procedures carried out by the taxpayer in accordance with provisions of Rule 114H and the results of such procedures. The tax auditor should review the list of Reportable Accounts identified by the due diligence process and the information to be maintained and reported by the taxpayer.

In case any reportable account has been omitted, or there is any error or omission in Form 61B, the same may be reported under the Form No. 3CD. The auditor should verify if the taxpayer has filed Form No. 61B for correcting errors or omissions in the form filed originally.

In such a case the auditor should give details of both the forms filed. The errors in the original Form 61B which are corrected in the revised Form 61B need not be reported under Form No. 3CD.

The tax auditor should verify that Form 61B is duly signed by the designated director and filed.

- **Clause 43 (a) Whether the assessee or its parent entity or alternate reporting entity is liable to furnish the report as referred to in subsection (2) of section 286 (Yes/No)**

  (b) if yes, please furnish the following details:

  (i) Whether report has been furnished by the assessee or its parent entity or an alternate reporting entity

  (ii) Name of parent entity

  (iii) Name of alternate reporting entity (if applicable)

  (iv) Date of furnishing of report

Clause 43 has been newly introduced in Form No. 3CD. The Finance Act, 2016 by introducing Section 286 in the Act, has introduced provisions relating to the Country by Country Report (CbCR) and Master File pursuant to the adoption of OECD’s Base Erosion and Profit Shifting (BEPS), Action Plan 13 in India.

Under Section 286, an international group has to furnish CbCR containing information about the whole group comprising of various constituent entities.
Such a report is to be filed in India if the parent entity is resident of India or the international group has appointed a constituent entity which is resident in India to file CbCR on behalf of the whole group.

The report under Section 286(2) is filed by the parent entity which is resident in India or the alternate reporting entity which is resident in India.

For tax audit for the assessment year 2018-19, the tax auditor should comment upon report Section 286(2) that was required to be filed on or before 31 March 2018.

The tax auditor should verify if the taxpayer is required to file the Form 3CEAC based on the satisfaction of the conditions prescribed.

The tax auditor should also verify if the taxpayer whose parent is a non-resident has filed Form No. 3CEAC.

The tax auditor may obtain a necessary certificate from the taxpayer in respect of constitution of the international.

- **Clause 44*. Break-up of total expenditure of entities registered or not registered under the GST:**

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Total amount of Expenditure incurred during the year</th>
<th>Expenditure in respect of entities registered under GST</th>
<th>Expenditure in respect of entities not registered under GST</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Relating to goods or services exempt from GST</td>
<td>Relating to entities falling under composition scheme</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Relating to other registered entities</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Total payment to registered entities</td>
</tr>
<tr>
<td>(5)</td>
<td>(6)</td>
<td>(7)</td>
<td></td>
</tr>
</tbody>
</table>

*Note: Reporting under Clause 44 has been deferred till 31 March 2020 (Circular No. 9/2019 of the Central Board of Direct Taxes dated 14 May 2019).*

**Signature and Stamp/Seal of the Signatory:** Form 3CD has to be signed by the person competent to sign Form No. 3CA or Form No.3CB as the case may be. He has also to give his full name, address, membership number, firm registration number, wherever applicable, place and date. Further, the e-filing portal requires the tax auditor to affix his Digital Signature while registering himself. He is also required to put his stamp/Seal as well.
6. CODE OF ETHICS AND OTHER MATTERS

Some of the issues which are commonly raised in regard to different aspects of tax audit vis-à-vis the liability / obligations of the tax auditor are considered hereunder.

1. The liability of the tax auditor in respect of tax audit will be the same as in any other audit assignment. It may be noted that when any question relating to the audit conducted by a tax auditor arises, he is answerable to the Council of the Institute under the Chartered Accountants Act. In all matters concerning tax audit, ICAI’s disciplinary jurisdiction will prevail.

2. In case the assessee is found guilty of having concealed the particulars of his income it would not ipso facto mean that the tax auditor is also responsible. If the Assessing Officer comes to the conclusion that the tax auditor was grossly negligent in the performance of his duties, he can refer the matter to the ICAI so that appropriate action can be taken against the tax auditor under the Chartered Accountants Act.

3. The Assessing Officer or any other authority who is authorised to issue summons and to call for evidence or documents, can call upon the tax auditor who has audited the accounts to give any evidence or produce documents. For this purpose notice under section 131 can be issued by the Assessing Officer or other tax authority mentioned in the said section.

4. If the actual work relating to examination of books and records is done by a qualified assistant in a firm of chartered accountants and the partner of the firm signing the audit report has relied upon this work, action, if any, for professional negligence can be initiated against the member who has signed the report and in such an event, it would be open for the member concerned to prove that he has taken due care and diligence in the performance of his duties and is not aware of any reason to believe that he should not have so relied.

5. If the qualified assistant (whether or not holding the certificate of practice) is found to be grossly negligent in the performance of his duties, the Council of the Institute can take disciplinary action against him.

6. The opinion expressed by the tax auditor is not binding on the assessee. If the tax auditor has qualified his report and expressed an opinion on a particular item, the assessee may take a different view while preparing his return of income. In such cases, it is advisable for the assessee to state his viewpoint and support the same by any judicial pronouncements on which he wants to rely.

Format of Financial Statements: The tax auditor of a person who carries on business or profession but who is not required by or under any other law to get his accounts audited has to give his report in Forms No. 3CB/3CD and will have to ensure that the financial statements i.e. balance sheet and profit and loss account/ income and expenditure statement, are prepared in such a manner that adequate information which is necessary to convey a true and fair view of the state of affairs of the assessee is given. So far as a person whose accounts of the business or profession have been audited under any other law is concerned, the information to be given in the financial statements is
normally provided in the particular statute by which the assessee is governed. Since there is no such legislation in respect of a person who carries on business or profession but who is not required by or under any other law to get his accounts audited, it is necessary to achieve some uniformity in respect of information to be provided in the financial statements. For presentation and disclosure requirements, applicable AS and AS (IT) should be kept in mind.

[Note: Students may refer “Guidance Note on Tax Audit under Section 44AB of the Income Tax Act, 1961” hosted on ICAI Website for comprehensive knowledge and Implementation Guide w.r.t. Notification No. 33/2018 issued by the ICAI.]

7. Audit Provisions under Indirect Tax Laws

The GST roll out on 1st July 2017 has paved the way for realization of the goal of “one nation-one tax-one market”. GST is expected to benefit Indian economy overall with most tax compliant businesses getting favourably impacted. It is a trust based taxation regime wherein the assessee is required to self-assess his returns and determine tax liability without any intervention by the tax official. Therefore, a tax regime that relies on self-assessment has to put in place a robust audit mechanism to measure and ensure compliance of the provisions of law by the taxable person.

Definition of “Audit” has been as per section 2(13) of the CGST Act, 2017 is given below:

|“audit” means the examination of records, returns and other documents maintained or furnished by the registered person under this Act or the rules made thereunder or under any other law for the time being in force to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of this Act or the rules made thereunder.” |

The definition of ‘audit’ under the Act is a wide term covering the examination of records, returns and documents maintained/ furnished under this Act or Rules and under any other law in force. Any document, record maintained by a registered person under any law can thus be called upon and audited. It becomes critical for the person to maintain true documents/ records to ensure correctness and smooth conduct of audit.

Objective of GST Audit: The objective of the GST audit can be ascertained from the definition of Audit given in Section 2(13) of Central Goods and Services Tax Act, 2017(CGST Act). The said definition reads as follows:

“audit means the examination of records, returns and other documents maintained or furnished by the registered person under this Act or the rules made thereunder or under any other law for the time being in force to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of this Act or the rules made there under.”
All this makes it clear that the objective of GST is to ensure the correctness of Turnover declared, Taxes paid, Refund claimed, and Input Tax Credit availed in addition to compliance of the GST Act and Rules. The intent is that the compliance of the GST law has to be confirmed by the GST audit.

7.1 Types of Audit under GST

GST envisages three types of Audit.

(1) Audit of accounts [Section 35(5) read alongwith section 44(2) and rule 80]

(2) Audit by Tax Authorities wherein the Commissioner or any officer authorised by him, can undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed. [Section 65 and rule 101]

(3) Special Audit wherein the registered person can be directed to get his records including books of account examined and audited by a chartered accountant or a cost accountant during any stage of scrutiny, inquiry, investigation or any other proceedings; depending upon the complexity of the case [Section 66 and rule 102] on order of Assistant Commissioner or above with prior approval of the Commissioner.
7.1.1 Threshold for Audit:

Section 35(5) begins with the expression “every registered person whose turnover during a financial year exceeds the prescribed limit” whereas the relevant Rule 80(3) uses the expression “every registered person whose aggregate turnover during a financial year exceeds two crore rupees”. It must be noted that the word turnover has not been defined whereas the expression aggregate turnover has been defined. One may note that the expression turnover in State or turnover in the Union territory is defined. In this backdrop the following understanding is relevant:

(a) Aggregate turnover is PAN based while turnover in a State/UT, though similarly worded, is limited to turnover in a State / UT, which is limited to a State;

(b) It is therefore, reasonable to interpret that the word turnover used in Section 35(5) ought to be understood as aggregate turnover.

(c) For the financial year 2017-18, the GST period consists of 9 months whereas the relevant Section 35(5) uses the expression financial year; Therefore, in the absence of clarification from the government, and to avoid any cases of default, it is reasonable to understand that to reckon the turnover limits prescribed for audit i.e., ₹ 2 crores one has to reckon the turnovers for the whole of the financial year which would also include the first quarter of the financial year 2017-18. Please consider that travelling to a period (prior to introduction of GST) is only to identify the ‘trigger’ for applicability or inapplicability of this audit requirement and does not do any great offence to sanctity of limiting GST audit to transactions after 1 July 2017. After considering 12-months transactions, GST audit will however be limited to transactions attracting GST law, that is, 9-months of 2017-18.

However, if taxpayer were to take a view that the threshold of ₹ 2 Crore ought to consider transactions 9 months since implementation of GST from 1 July, 2017, suitable disclosure or intimation to the jurisdictional officer in writing, would be merited.

Illustration

1. Mr X, an articled trainee in JSA associates, is assigned on a GST Audit assignment of Flex Industries plant in Delhi. He is confused with the applicability of GST audit on Flex Industries considering the definition of turnover in section 35(5). Flex Industries is a company with operations spread across India with aggregate annual turnover amounting to ₹ 8 crores (this turnover is spread across various cities). Will GST audit be applicable on Flex Industries? If yes, substantiate section 35(5) in context of Rule 80(3).

Solution: GST Audit will be applicable on Flex Industries. As per Sec 35(5) read with Rule 80(3), the total turnover calculation for assessment of applicability of GST audit must be done on a PAN India basis, which means that once the turnover under the PAN India level is more than ₹ 2 crores, all business entities registered under GST for that PAN will be liable for GST audit for the financial year.
2. Krishna Enterprises, a textile shop with registered GST premise in Delhi, is having turnover of ₹ 55 lakhs, ₹ 45 lakhs and ₹ 50 lakhs for the quarter 2, 3 and 4 respectively of the financial year 2017-18. He had good fortune turnover in quarter 1 of 2017-18 for ₹ 70 lakhs. Mr. Vasudev, a Chartered Accountant, is appointed as tax consultant of Krishna Enterprises. He is perplexed whether GST audit is applicable for his client. If so, substantiate with relevant section.

Solution: GST Audit will be applicable to Krishna Enterprises. As per Sec 35(5) read with Rule 80(3), if the annual turnover of a registered taxpayer is more than ₹ 2 crores in a financial year, he is required to get his accounts audited by a Chartered Accountant or Cost Accountant every year.

A financial year covers the 12-month period beginning from April of a calendar year to March of the next calendar year. For the purpose of computing the turnover limit for financial year 2017-18, it includes the first quarter of 2017-2018 i.e. 1 April 2017 to 30 June 2017, period before GST was implemented. Hence GST audit is applicable to Krishna Enterprises.

3. SSM & Co. is a leading electronics company having multiple branches registered under GST in different states. The total aggregate turnover of all such branches exceed ₹ 2 crores. However, the Delhi branch has a turnover of 75 lakhs per annum. Pankaj Gupta, Finance officer of Delhi branch, is contending that GST audit is not applicable on Delhi branch as the turnover for that branch does not surpass the threshold. Whether the contention of Mr Pankaj Gupta is correct or not. Substantiate.

Solution: GST audit is applicable on Delhi branch. As per Sec 35(5) read with Rule 80(3), the total turnover calculation must be PAN-based, which means that once the turnover under the PAN is more than ₹ 2 crores, all business entities registered under GST for that PAN will be liable for GST audit for a financial year. Contention of Mr. Pankaj, Finance Officer, is incorrect.

Qualification of GST Auditor & Eligibility: Only a Chartered Accountant or a Cost Accountant can perform GST Audit u/s 35.

Points to note:
1. An internal auditor cannot be appointed as a GST Auditor of same entity.
2. The GST Act/Rules do not vest a GST practitioner with the power to audit u/s 35(5). The power to audit is granted only to a Chartered Accountant or Cost Accountant who is in practice or is an employee of a firm of Chartered Accountants or Cost Accountants. Therefore, a Chartered Accountant is not required to be registered as a GST practitioner for the purpose of certifying Form GSTR 9C.
3. Where an organization or an entity has multiple branches registered under GST in different states/Union Territories, the total aggregate turnover of all such branches is considered while calculating the threshold limit of ₹ 2 crores. So, if the cumulative turnover of all the branches exceed ₹ 2 crores, then the GST audit is applicable to each of these branches, irrespective of whether the turnover of a particular branch is less than the threshold. In such cases, one can appoint either one dedicated auditor for all branches or separate auditor for each branch.
Where multiple branches have different auditors, the Standards on Auditing: SA 299 —Joint Audit of Financial Statements may apply for the purpose of reporting GST Audit observations & Reporting.

7.1.2. Audit of Accounts [Section 35(5) read alongwith section 44(2) and rule 80]

As per sub-section 5 of section 35 read alongwith section 44(2) and rule 80 of the CGST Rules, 2017 stipulates as follows:

**Every registered person must get his accounts audited by a Chartered Accountant or a Cost Accountant if his aggregate turnover during a FY exceeds ₹2 crores.**

**Such registered person is required to furnish electronically through the common portal alongwith Annual Return a copy of:**

- Audited annual accounts
- A Reconciliation Statement, duly certified, in prescribed FORM GSTR-9C.

*It may be noted that the section 35 (5) shall not apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.***

**Reconciliation Statement** will reconcile the value of supplies declared in the return furnished for the financial year with the audited annual financial statement and such other particulars, as may be prescribed.

<table>
<thead>
<tr>
<th>Value of supplies declared in Annual return</th>
<th>Value of supplies declared in audited Annual Financial Statement</th>
</tr>
</thead>
</table>

**Illustration**

Mr Anuj, a Chartered Accountant by profession, has been appointed as GST auditor for TPSL Ltd. The management has asked Mr Anuj for GST audit along with July and August 2019 month GSTR 3 B filing compliances and filing of annual return Form 9. Mr Anuj contended that he has been appointed only for GST audit and the above are his scope limitations and cannot be conducted as the compliances and returns are to be filed by the management. In context of above dispute, you have to suggest whether the contention of Mr Anuj is correct or not. Justify.

**Solution:** Management contention is not correct as return filing and preparation of annual returns and their filing was the responsibility of management. Auditor clearly states that the above are his...
scope limitation, their scope of work under this assignment will not involve any management functions. As per above case study, GST auditor’s prime responsibility on this engagement is limited to GST audit, audit of reconciliation statement between books of accounts vis a vis GST returns prepared by the company and the GST auditor is not responsible for preparation of any such statements, uploading GST periodic returns for the relevant audit period.

7.1.3. Audit under section 65:

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 65</td>
<td>Audit by tax authorities</td>
<td>The audit under Section 66 is a special audit to be conducted by a Chartered Accountant or Cost Accountant nominated by the Commissioner whereas the audit under Section 65 is a routine audit by the tax office.</td>
</tr>
</tbody>
</table>

7.1.4. Special Audit under section 66:

Availing the services of experts is an age old practice of due process of law. These experts have done yeoman service to the process of delivering justice. One such facility extended by the Act is in Section 66 where an officer not below the rank of Assistant Commissioner, duly approved, may avail the services of a Chartered Accountant or Cost Accountant to conduct a detailed examination of specific areas of operations of a registered person. Availing the services of the expert be it a Chartered Accountant or Cost Accountant is permitted by this section only when the officer considering the nature & complexity of the business and in the interest of revenue is of the opinion that:

- Value has not been correctly declared; or
- Credit availed is not within the normal limits.

It would be interesting to know how these ‘subjective’ conclusions will be drawn and how the proper officers determines what is the normal limit of input credit availed.

Circumstances for Notice for Special Audit: An Assistant Commissioner who nurses an opinion on the above two aspects, after commencement and before completion of any scrutiny, enquiry, investigation or any other proceedings under the Act, may direct a registered person to get his books of accounts audited by an expert. Such direction is to be issued in accordance with the provision of Rule 102 (1) FORM GST ADT-03

The Assistant Commissioner needs to obtain prior permission of the Commissioner to issue such direction to the taxable person.

Identifying the expert is not left to the registered person whose audit is to be conducted but the expert is to be nominated by the Commissioner.

Opportunity of being heard shall be given to registered person: As per section 66(4) of CGST, SGST and UTGST Acts, 2017, the registered person shall be given an opportunity of being heard in respect of any material gathered on the basis of special audit under sub-section (1) which is proposed to be used in any proceedings against him under this Act or the rules made thereunder.
**Time Limit to Submit the Audit Report:** The Chartered Accountant or the Cost Accountant so appointed shall submit the audit report, mentioning the specified particulars therein, within a period of 90 days, to the Assistant Commissioner in accordance with provision of Rule 102(2) FORM GST ADT-04.

**Extension in Submission of Audit Report:** In the event of an application to the Assistant Commissioner by Chartered Accountant or the Cost Accountant or the registered person seeking an extension, or for any material or sufficient reason, the due date of submission of audit report may be extended by another 90 days.

Considering the special nature of this audit, i.e. audit having been conducted under other proceedings or under other laws; this does not preclude the proper officer from exercising this option.

While the report in respect of the special audit under this section is to be submitted directly to the Assistant Commissioner, the registered person is to be provided an opportunity of being heard in respect of any material gathered in the special audit which is proposed to be used in any proceedings under this Act. This provision does not appear to clearly state whether the registered person is entitled to receive a copy of the entire audit report or only extracts or merely inferences from the audit. However, the observance of the principles of natural justice in the proceedings arising from this audit would not fail the taxable person on this aspect.

**7.1.5 Preparation for the GST Audit:**

**Preparation / Steps for the GST Audit:**

1. Inform the concerned assessee about the applicability of the GST audit;
2. Confirm the eligibility to be the GST auditor under the related legislation;
3. Understand the nature of business, the products or services, requirements of records to be maintained, and advise the auditee to maintain accounts and records so required, beforehand;
4. Prepare a questionnaire to understand the operations / activities of the auditee, and specifically develop questions on those issues on which the GST law would have a bearing;
5. Preparation of the detailed audit program and list of records to be verified;
6. Host of relevant reconciliations.

**Expenses for Examination and Remuneration for Audit:** The expenses for examination and audit including the remuneration payable to the auditor will be determined and borne by the Commissioner.

As in the case of audit under section 65, no demand of tax, even *ad interim*, is permitted on completion of the special audit under this section. In case any possible tax liability is identified during the audit, procedure under section 73 or 74 as the case may be is to be followed.

During the course of audit, the registered person shall afford the auditor with the necessary facility to verify the books of account and also furnish the required information and render assistance for timely completion of the audit. As per the CGST Rules on
Assessment and Audit Rules, the auditor shall verify the documents on the basis of which the accounts are maintained and the periodical returns/statements are furnished. While conducting the audit, the auditor is authorized to:

- Verify books & records
- Returns & statements
- Correctness of turnover, exemptions & deductions
- Rate of tax applicable in respect of supply of goods and/or services
- The input tax credit claimed/availed/unutilized and refund claimed.

Some of the best practices to be adopted for GST audit among others could be:

The evaluation of the internal control *viz-a-viz* GST would indicate the area to be focused. This could be done by verifying:

(a) The Statutory Audit report which has specific disclosure needs in regard to maintenance of record, stock and fixed assets.
(b) The Information System Audit report and the internal audit report.
(c) Internal Control questionnaire designed for GST compliance.
   (i) The use of generalised audit software to aid the GST audit would ensure modern practice of risk based audit are adopted.
   (ii) The reconciliation of the books of account or reports from the ERP’s to the return is imperative.
   (iii) The review of the gross trial balance for detecting any incomes being set off with expenses.
   (iv) Review of purchases/expenses to examine applicability of reverse charge applicable to goods/services. The foreign exchange outgo reconciliation would also be necessary for identifying the liability of import of services.
   (v) Quantitative reconciliation of stock transfer within the State or for supplies to job workers under exemption.
   (vi) Ratio analysis could provide vital clues on areas of non-compliance.

**Consequences of failure to submit the annual return and not getting the accounts audited:**

Section 47(2) provides that in case of failure to submit the annual return within the specified time, a late fee shall be leviable. The said late fee would be ₹ 100 per day during which such failure continues subject to a maximum of a quarter percent of the turnover in the State/UT. There would be an equal amount of late fee under the respective State/UT GST law.

However, there is no specific penalty prescribed in the GST Law for not getting the accounts audited by a Chartered Accountant or a Cost Accountant. Therefore, in terms of Section 125 of CGST Act he shall be subjected to a penalty of up to 25,000/-. This section deals with the general penalty that gets attracted where any person, who contravenes any of the provisions this Act, or any rules made thereunder for which no penalty is separately provided. Similar provision also exists under the
State/UT GST law as well. It is possible that since the return is to be accompanied with the report, if not done it may amount to non-filing of return and late fee also may be levied.

The auditor should advise the company to file the required GSTR Forms and annual returns before conducting GST audit so that auditor can validate and verify the returns filed by the company, verification of ITC claimed, verification of output GST liability discharged by the company and for collation of return workings and reconciliations. Auditor needs to have a comprehensive picture of -

1) Understanding of the back-up of monthly returns as well as annual return and understanding of reports generated by the GSTN portal as well as internal records of the company.

2) Understanding of the eligibility of Input Tax Credit (ITC) availed i.e. whether ITC availed by the company is creditable or not and understanding of reversal of ITC undertaken or applicable (if any).

3) Understanding of the taxability of outward supplies and transactions covered under Reverse Charge Mechanism and other miscellaneous/ specific transactions and understanding of the positions taken on various transactions by the company.

7.1.6. Audit Approach

There are no prescribed or specified approaches for conducting audit under the GST laws. Similarities can be drawn between a GST Audit and / or Tax Audit under Section 44AB of the Income-tax Act and audit under the Companies Act. The GST Auditor is not required to express his opinion on truth and fairness of the financials when it is audited by others. In any case, he is required to certify the correctness and completeness of certain reconciled data. The verification would necessarily have to be substantially more than the opinion on truth and fairness.

In this background certain time-tested methods of conducting an audit have evolved into guidelines, which among others are as follows:

(a) Obtaining prior knowledge of the business and comparing them with similar businesses;
(b) Preparing a master file of the clients (permanent master file);
(c) Discussing on with the audit team on the methodology to proceed with the audit;
(d) Studying and evaluating systems (including business systems) and internal control of the business entity;
(e) Assessing the audit risks and deploying of suitable personnel;
(f) Assessing the risk appetite of the business entity;
(g) Preparing of an audit plan / audit program and conducting the audit accordingly;
(h) Reviewing meetings with the audit team;
(i) Drawing conclusions on the basis of audit evidence obtained in the course of conducting the audit and a discussion with the client on the observations and findings;
(j) Discussing with the registered person and obtaining various management certificates;

(k) Reporting the observations in the prescribed statutory format, if any, or evolving a suitable format of reporting;

(l) Maintaining Audit working papers file (Filing of documents either in permanent file or working papers file);

(m) Concluding the audit and intimating the management.

**7.1.7. Accounting Standard Vs. GST**

The auditor should also take into account the accounting standards followed at the time of preparation of financial statements. There could be differences in the manner of accounting treatment of certain transactions as per Accounting Standard in the financial statements vis-à-vis the treatment under GST. Some of the differences are:

- Supplies on behalf of the principal are not reflected in the financial statements of the agent and only commission is shown as the revenue of the agent. Under the GST Law, such turnover would be treated as part of the agent’s turnover.

- Under the Accounting Standard 19 in the case of finance lease, in the books of the lessor, the cost of the asset is recorded as a receivable whereas in the books of the lessee, it would be recorded as an asset purchased. However, under the GST, the cost of the asset would be recorded as a purchase and the fair value of the asset would not be recorded in the books of the lessee as a purchase. In the case of the lessor, only the financial charges would be treated as revenue as per the AS, whereas under the GST, the entire amount would be treated as revenue. Similarly, as per the Accounting Standard, in the case of lessee, the amount of lease rentals would be bifurcated into interest charges and liability, whereas under the GST, the entire amount would be treated as expense.

The above is only illustrative and there could be many more cases of differences in the turnovers between the financial statements and the GST Law.

**7.1.8. GST Audit in Computerised Environment**

Compliances under the GST law are dependent upon technology because transactions are numerous. It is not only the Government which has adopted technology; businesses too have adopted technology at different levels to meet the compliance requirement.

In the GST regime, Information Systems have become an integral part of enterprise day-today operation, such as return filing, payment of taxes, rectification of returns filed, reconciliation of multiple returns GSTR 1, GSTR 2A, GSTR 3B, e-Way Bill, GSTR 9 etc. The increased usage of technology has pitfalls when sufficient controls are not built within. The primary responsibility of the GST Auditor is to assess the entire Computerized Information System (CIS) environment and get macro perspective of data availability and systems reliability.
Unlike the traditional audit methodology which involved manual process of checking and verification, the GST audit processes for larger assesses is carried out by using Computer Systems and Technology. For example, verification for the matching of Input Tax Credit availed with the Outward Supply declared by the supplier being large in numbers, cannot be done manually. Hence different computerized tools and methods have to be used for the purpose.

Though it is clear that computerized tools and methods have to be used for conducting the audit, at the same time it is important that the Auditor is aware of such computerized environment which can be called Computerized Information System (CIS) Environment, and the audit risks involved therein.

GST Auditor should also try to know whether the computer of any type or size used by the entity for processing financial information is important for the purposes of audit, and if it is operated by the entity or by a third party.

Controls can be classified based on whether they are, preventive, detective or corrective or based on some other parameters like physical, logical or environmental. More classifications are also possible, based on the assets they protect.

### 7.1.9 Audit Planning

The auditors should obtain an understanding of the organization Internal Process of

- (a) accounting of Transactions
- (b) reporting to the GSTN Portal
- (c) reconciliation of filed data and
- (d) internal control systems implemented

To plan the audit and develop an effective audit approach to meet audit requirements.

In planning the portions of the audit which may be affected by the client's CIS environment, the auditors should obtain an understanding of the significance and complexity of the CIS activities and the availability of data for use in the audit.

**Preliminary Review**

Before starting his work, the GST Auditor shall conduct a preliminary review to assess the CIS controls and the risks that could impact his work by considering the following points:

- Knowledge of the Business
- Understanding the technology deployed
- Understanding Internal Control System
- Risk assessment and Materiality
7.1.10. Various Returns Under GST

**GSTR 9**
- to be filed by the regular taxpayers filing GSTR 1, GSTR 2, GSTR 3

**GSTR 9A**
- to be filed by the persons registered under composition scheme under GST.

**GSTR 9B**
- To be filed by e-commerce operators

**GSTR 9C**
- Should be by the taxpayers whose annual turnover exceeds rupees 2 Crores during the financial year along with audited annual accounts and reconciliation statement of tax already paid and tax payable as per audited accounts along with GSTR 9C.

Various Forms/Returns to be filed under GST Act

**GSTR 9 - Annual Return Filing, Format, Eligibility & Rules**

GSTR 9 form is an annual return to be filed once in a year by the registered taxpayers under GST including those registered under composition levy scheme. It consists of details regarding the supplies made and received during the year under different tax heads i.e. CGST, SGST and IGST. It consolidates the information furnished in the monthly/quarterly returns during the year.

All the registered taxable persons under GST must file GSTR 9 form. However, the following persons are **not** required to file GSTR 9:

- Casual Taxable Person
- Input service distributors
- Non-resident taxable persons
- Persons paying TDS under section 51 of GST Act.

**Details required in the GSTR 9**

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Parts of GSTR – 9</th>
<th>Information Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Part – I</td>
<td>Basic details of the taxpayer. This detail will be auto-populated.</td>
</tr>
<tr>
<td>2.</td>
<td>Part – II</td>
<td>Details of Outward and Inward supplies declared during the financial year (FY). This detail must be picked up by consolidating summary from all GST returns filed in previous FY.</td>
</tr>
<tr>
<td>3.</td>
<td>Part – III</td>
<td>Details of ITC declared in returns filed during the FY. This will be summarised values picked up from all the GST returns filed in previous FY.</td>
</tr>
<tr>
<td>4.</td>
<td>Part – IV</td>
<td>Details of tax paid as declared in returns filed during the FY.</td>
</tr>
</tbody>
</table>
5. **Part – V**: Particulars of the transactions for the previous FY declared in returns of April to September of current FY or up to the date of filing of annual returns of previous FY whichever is earlier. Usually, the summary of amendment or omission entries belonging to previous FY but reported in Current FY would be segregated and declared here.

6. **Part – VI**: Other information comprising details of:
   - GST demands and refunds,
   - HSN wise summary of the quantity of goods supplied and received with its corresponding Tax details against each HSN code,
   - Late Fees payable and paid details,
   - Segregation of inward supplies received from different categories of taxpayers like Composition dealers, deemed supply and goods supplied on approval basis.

### Analysis of GSTR 9C

Form GSTR 9C is the relevant form prescribed in terms of Rule 80(3) of the CGST Rules. This has two parts to it: Part A titled the “Reconciliation Statement” and Part B is the Certification portion. Part I captures the basic details of the Registered Person under Part A (Reconciliation Statement) which has 4 Sl. Nos. Each of the Sl. Nos is significant in terms of the disclosure requirement.

### Comparative view of Form GSTR-9 and GSTR 9C

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Return in GSTR 9</th>
<th>Return in GSTR 9C</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>It is the report of a formal or official character giving information</td>
<td>Means the formal statement to be made under the provisions of the Act the veracity of which needs an enquiry as to its correctness</td>
</tr>
<tr>
<td>2.</td>
<td>Prescribed under a Statute</td>
<td>Prescribed under a Statute</td>
</tr>
<tr>
<td>3.</td>
<td>To be filed by all registered persons</td>
<td>To be filed only if the aggregate turnover in a financial year exceeds ₹ 2 Crores.</td>
</tr>
<tr>
<td>4.</td>
<td>Not required to be filed by a Casual Taxable Person, Non-Resident Taxable Person, Input Service Distributor, Unique Identification Number Holders, Online Information and Database Access Retrieval Service, Composition Dealers, persons required to deduct taxes under Section 51 and persons required to collect taxes under Section 52.</td>
<td>Not required to be filed by a Casual Taxable Person, Non-Resident Taxable Person, Input Service Distributor, Unique Identification Number Holders, Online Information and Database Access Retrieval Service, Composition Dealers, persons required to collect taxes under Section 52.</td>
</tr>
<tr>
<td>5.</td>
<td>No need to annex financials</td>
<td>Financials to be annexed</td>
</tr>
<tr>
<td>6.</td>
<td>A plain reading of the relevant provisions indicate that the said Annual Return in GSTR 9 and the Reconciliation Statement in GSTR 9C must be filed together.</td>
<td></td>
</tr>
</tbody>
</table>
However, if one were to peruse GSTR 9C there are certain tables which state that “turnover as declared in annual return” indicating thereby that GSTR 9C is dependent on GSTR 9. This anomaly can be addressed only on the basis of the finalized annual return initialled and presented to the GST auditor by the registered person.

Form GSTR 9C

Part 1: Basic Details has the following four sections

- **Part 1.** Reconciliation of turnover declared in the audited Annual Financial Statement with turnover declared in Annual Return (Sl No. 1 - 4)
- **Part 2.** Reconciliation of tax paid (Sl No. 5 to 8)
- **Part 3.** Reconciliation of ITC (Sl No. 9 to 11)
- **Part 4.** Auditor’s recommendation on additional Liability due to non-reconciliation (Sl No. 12 to 16)
- **Part 5.** Certification

Analysis of Form GSTR 9C

**Part 1:** Basic Details requires disclosure of the “financial year” to which the Reconciliation Statement in Part A relates to.

**Part 2.** GSTIN: “Goods and Services tax Identification Number” of the tax payer or the Registered Person.

**Part 3.** Legal Name and Trade Name: The word “trade” is not only limited to occupation or business. It could be a connotation. The word “trade” ought to be understood in its ordinary sense, without any reference to “business”. Example: “Indigo” could be a trade name while the legal name is “InterGlobe Aviation Limited”.

**Part 4.** Are you liable to audit under any Act?: It is possible that an entity could be subjected to audit under several statutes. Example: A Proprietary Concern could be subject to audit under the Income tax Act, 1961 and a Private Limited Company could be subject to the statutory audit under the Companies Act, 2013 as well as under the Income tax Act.
PART-I - Sl. No. 1 : Financial Year

This Sl. No. requires disclosure of the “financial year” to which the Reconciliation Statement in Part A relates to. The expression financial year has not been defined under the GST laws. However, in terms of the General Clauses Act “financial year” shall mean the year commencing on the 1st day of April and closing on the 31st day of March.

Part I - Sl. No. 2 : GSTIN

GSTIN means the “Goods and Services tax Identification Number” of the tax payer or the Registered Person. Each tax payer, on his successful registration, would be assigned a State-wise PAN based 15-digit GSTIN. The first 2 digits of the said GSTIN would represent the State code, as per the Indian Census 2011 viz., Karnataka 29, Delhi 07 etc. The next 10 digits would be the PAN of the tax payer. It implies that if one is not allotted a PAN, he cannot be registered under the GST Laws. The 13th digit would be based on the number of registrations within a State, while the 14th digit would be assigned based on the nature of the business of the Registered person. The 15th digit is a check code which can be a “numeral” or an “alphabet”.

In the case of a Non-resident taxable person (“NRTP”), Rule 13 of the CGST Rules permits registration even without PAN. In such case, registration shall be granted based on the tax identification number or unique number on the basis of which the entity is identified by the Government where the said entity is based.

GSTIN based on PAN ought to be validated. As and when such errors are noticed during the GST audit, the GST Auditor should disclose such information appropriately. He must also consider other implications due to such errors.

Part I - Sl. No. 3A and 3B: Legal Name and Trade Name

The word “trade” used in Sl.No. 3B of Part A may not be limited to occupation or business. It could be a connotation. The word “trade” ought to be understood in its ordinary sense, without any reference to “business”. For instance, “Indigo” could be a trade name while the legal name is “InterGlobe Aviation Limited”.

Therefore, understood, trade name is used by trade and industry to identify their businesses symbolizing their reputation. Caution must be exercised in listing the trade name and legal name in Sl. Nos. 3A and 3B.

It is possible that some Registered Persons may not have a trade name. In such situations, Sl.No. 3B of Part A would not be applicable. Therefore, NOT APPLICABLE is to be stated in Part A which could be verified from the <<auto populated>> data.

The legal name and trade name ought to be verified with the certificate of registration issued by the tax department in Form GST REG – 06. Similarly, if the Registered Person is a company registered under the Companies Act, 2013, the legal name / trade name can be verified with the Certificate of Incorporation and in case of partnership firm by the certificate issued by the Registrar of Firms.
Therefore, the distinction between a trade name and a legal name must be clearly understood and borne out in Sl.No. 3A and 3B of Part A, and should not be used interchangeably.

**Part I - Sl. No. 4 : Are you liable to audit under any Act?**

The Sl. No. “Are you liable to audit under any Act?” mentioned in GSTR 9C needs elaboration. It is possible that an entity could be subjected to audit under several statutes. For instance a Proprietary Concern could be subject to audit under the Income tax Act, 1961 and a Private Limited Company could be subject to the statutory audit under the Companies Act, 2013 as well as under the Income tax Act. Similarly, a society registered under the Societies Registration Act may be subject to audit under that Act as well as under the Income tax Act. This fact must be specified in Sl. No. 4. It is currently not clear if the response to this question would be YES / NO or would be to select from a drop-down menu the statute under which the tax payer has been subjected to audit.

**Part II - Sl. No. 5A: turnover (including exports) as per audited financial statements for the State / UT (For multi-GSTIN units under same PAN the turnover shall be derived from the audited Annual Financial Statement)**

Sl. No. 5A is intended to report the turnover as per the audited Annual Financial Statement for a GSTIN. There may be cases where multiple GSTINs (State-wise) registrations exist for the same PAN. This is common for persons / entities with presence over multiple States or in respect of multiple registration in a single State/UT. The Government vide its instructions has indicated that such persons / entities would have to internally derive their GSTIN wise turnover and provide to the Auditor to verify and declare in this Sl. No.

The Auditor must bear in mind that in a real business environment several entities may not be in a position to provide such derived turnovers. In such a situation, the Auditor has to engage suitably himself and carryout this exercise.

**Checks and balances to validate correctness and completeness:**

To ensure completeness and correctness of the details of turnover to be declared under this Sl.No., the following checks could be used:

1. turnover in State/UT (in case of single registration) must reconcile to the turnover disclosed in the audited financial statements;
2. turnover in State/UT (in case of multiple registration) must reconcile to the turnover as recorded in the books of accounts of each registration;
3. Master reconciliation to ensure that the details of turnover declared for different registrations (in case of multiple registrations either due to presence in multiple States/UTs’ or due to unit(s) in SEZ) with the total turnover of the entity

**List of documents**

The following list of documents could be obtained by the Auditor for the purpose of declaring the details of turnover under this Sl. No.:
a. Annual Financial Statements
b. Registrant wise Trial Balance to facilitate furnishing the Form GSTR 9C for each registrant;
c. Communication with the other Auditor to obtain details of the turnover declared by them to ensure completeness and holistic reconciliation of turnover of the Registered Person;
d. Form GSTR 9C, if already filed by a different Auditor, in case of multiple registrations of the Registered Person;
e. GST (Viz. Form GSTR 3B and Form GSTR 1) returns filed by the Registered Person to ensure that the turnover declared in the returns match the turnover captured in the audited financial statements
f. Income tax Returns (ITR) to ensure that the turnover details are reconciled with the turnover per GST.

Sl. No. 5B. Unbilled revenue at the beginning of Financial Year

To comprehend the scope of these Sl. Nos, there is need to understand the concept of ‘Unbilled revenue’. In simple terms, unbilled revenue is the revenue recognized in the books of accounts before the issue of an invoice at the end of a particular period. Accounting Standard - 9 / IND AS 115 provides for recognition of revenue on full completion / partial completion of the services though the due date for issuing invoice as per the contract would be on a later date. It is advisable to refer to AS-9 / IND AS 115 for a better understanding of the concept.

Clause 5B requires the addition of unbilled revenue at the beginning of a Financial Year. Unbilled revenue which was recorded in the books of accounts on the basis of accrual system of accounting in the earlier financial year for which the invoice is issued under the GST law is required to be declared here. In other words, when GST is payable during the financial year on such revenue (which was recognized as income in the earlier year), the value of such revenue is to be declared here.

Unbilled revenue would appear in the profit and loss account of the previous year. For information of unbilled revenue at the beginning of a Financial Year, reference may be made to previous year’s audited financial statements. However, as the GST was introduced from 1st July 2017 one needs to be careful to exclude invoices raised during the period April 2017 to June 2017 from the computation.

Sl. No. 5C Add: Unadjusted advances at the end of the Financial Year

The scope of Part II Sl No. 5C and 5l is to make adjustment of Unadjusted Advances to Audited Financials for arriving towards the GSTR 9 turnover.

It is a business practice to collect advances from customers before effecting supplies. When an advance is received, since the goods and / or services would not have been delivered / rendered, the revenue is not yet earned, whereby this advance would be recorded as a liability (either as current liability or long-term liability) in the balance sheet as at the end of the financial year.
For Supply of Goods

Sec 12(2): The time of supply of goods shall be the earlier of the following dates, namely: —

(a) the date of issue of invoice by the supplier or the last date on which he is required, under sub-Section (1) of Section 31, to issue the invoice with respect to the supply; or

(b) **the date on which the supplier receives payment with respect to the supply:**

The Government issued NN 40/2017-CT dated 13th October 2017 in terms of Section 148 of CGST Act to relax Registered Persons having aggregate turnover less than ₹ 1.5 crores from paying tax on such advances. This facility was extended to all Registered Persons without threshold limit vide NN 66/2017-Central tax, dated 15th Nov 2017 but only in the case of supply of goods.

In terms of the above notifications, an Auditor has to examine whether the Registered Person has paid tax on advances till 15th Nov 2017.

For Supply of Services

CGST Section 13 (2)

The time of supply of services shall be the earliest of the following dates, namely: —

(a) the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under Section 31 or the date of receipt of payment, whichever is earlier; or

(b) the date of provision of service, if the invoice is not issued within the period prescribed under Section 31 or the date of receipt of payment, whichever is earlier; or

(c) the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (a) or clause (b) do not apply:

Explanation—For the purposes of clauses (a) and (b)—

- the supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment;

- “the date of receipt of payment” shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

Therefore, any advances received from customers before the date of supply, on receipt of advance GST, have to be discharged.

Sl. No. 5D. Deemed Supply under Schedule I

Clause 5D seeks to cover aggregate value of four classes of deemed supplies transactions specified under Schedule I of the CGST Act. Any deemed supply which is already reported as part of the turnover in the audited Annual Financial Statements is not required to be included in this Sl. No.
As the requirement of this Sl. No. is to report the transactions which were not reported in the financial statements, though the same are reported in the returns filed since they are treated as deemed supplies under the GST law, there is no direct source will indicate the value of deemed supplies under any part of the returns or statement filed. Details regarding this have to be extracted from the books/records.

E-Way bills raised would be a good guiding factor to identify such instances in respect of goods while an Auditor may have to delve deeper to understand the transactions relating to services. For instance, transactions relating to stock transfer of goods may be extracted from delivery challans or on an analysis of e-way bills, whereas transactions of service transfers will be based on an understanding of the nature business. It is better to take proper management representation for the completeness of these transactions.

The Auditor should look beyond the books of accounts and look for alternative evidence and information for reporting in Sl.No. 5D. Such as

1. Permanent Transfer or disposal of business assets where input tax credit has been availed on such assets
2. Supply of goods or services or both between related persons or between distinct persons as specified in Section 25, when made in the course or furtherance of business.
3. Supply of goods-
   (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or
   (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

**Disclosure by Auditor**

1. The Auditor has to assess the systems and processes adopted by the entity with a view to identifying such transactions. Suitable disclosure may need to be provided by the Auditor for the basis of such identification and its treatment under the GST Laws.
2. If there is any system / methodology for such an identification, then the Audit has to assess the completeness and correctness of the said system so as to cover all the aspects;
3. To examine records and to confirm if the system is followed consistently.
4. If there is no proper system, to consider the possibility of any transactions that may have escaped attention.
5. In cases of deemed supply transactions, it would be relevant to include suitable disclosures even in the management representation letter.
Sl. No.5E. Credit notes issued after the end of the financial year but reflected in the annual return.

This Sl. No. mandates reporting of the aggregate value of credit notes which were issued after Mar 31, 2018 in respect of any supply accounted in the current financial year (2018-19) but for credit notes were reflected in the annual return (GSTR –9 for the financial year 2017-18). But, it is uncommon, although not impossible, for credit notes dated beyond Apr 1, 2018 to be given effect in the financial accounts. This Sl. No. applies only in such rare cases. For the most part, this Sl. No. may well be ‘nil’.

5E of GSTR 9C contains information pertaining to credit notes which were issued after 31st of March for any supply accounted in the current financial year but such credit notes were reflected in the annual return (GSTR–9).

Sl. No. 5F. Trade discounts accounted for in the audited Annual Financial Statement but are not permissible under GST

Clause 5F requires disclosure of trade discounts which have been given effect to, in the audited financial statements but which are not permissible as part of deductions from the value of supply under the GST Laws.

This data / information can generally be obtained from the credit side of the Profit and Loss account. It is also a business practice that trade discounts would be netted off against the turnover of outward supplies. In the case of entities with multiple registration, a separate statement is to be obtained for each GSTIN reconciling the total with the amount disclosed in the financials.

Non-allowance of the same has to be identified on the basis of the documents maintained by looking into the conditions of allowance as deduction against the supply made as per Section 15(3) of the CGST Act.

Since it may be difficult to verify all the cases of trade discounts by the Auditor to consider the eligibility for deduction, it may have to adopt some other audit techniques to ascertain the same. Also, it would be important to obtain the appropriate management representation letter from the entity.

The following are the control checks that a person should perform for validation of the amounts reported under this head:

(a) The valuation of trade discounts for the purposes of disclosures under this head, has to be clearly documented.

(b) The input tax credit reflected in GSTR-2A attributable to such trade discounts has to be maintained.

(c) The trade discount has to be demarcated between the supplies made in the erstwhile law and the GST regime.
(d) The customer agreements have to be scrutinised to determine the quantum of nonallowable discounts.

**Sl. No. 5G: turnover from April 2017 to June 2017**

In terms of this Sl. No. the turnovers included in the audited financial statement for the period April 2017 to June 2017 shall be declared and deducted from the annual turnover to arrive at the turnover as per the GST Laws.

There could be cases where the books of accounts are closed quarterly, or financial statements are drawn up quarterly. In such cases, the quarterly turnovers can be adopted, and adjustments can be made relating to the point of taxation under the excise law, State level vat law and service tax law to arrive at taxable values as per the erstwhile laws. The said value must be entered under this head.

Turnovers forming part of the tax periods 1.4.17 to 30.06.17, which were liability to tax under the erstwhile laws as per the provisions relating to the point of taxation rules should be deducted from the turnover.

It may be noted that tax is liable to be paid on removal in case of excise/ on sale under VAT law/ on provision of service or issue of invoice as the case may be under service tax law provisions and not on accrual basis or cash basis (which is the basis of accounting and hence basis of annual turnover as per financial statements). Thus, the criteria for reducing turnover for the period April 2017 to June 2017 is not when the revenue was recognised as per relevant accounting standards, but whether or not the said amounts were liable to tax under the erstwhile laws as per the point of taxation under the said laws.

Amounts forming part of turnover relating to works contracts, where consideration was received during the period April 2017 to June 2017, but supplies were effected or services were rendered after June 2017, needs to be deducted under this Sl. No. because the said consideration was liable to tax on receipt basis as per the service tax law and State level VAT laws. However, the self-same value needs to be added back in Sl. No. 5(O), since the aforesaid supplies would be liable to tax under the GST law also as per Section 142(11)(c). At this juncture, it is important to note that the relevant service tax and value added tax paid on such advances for which supplies are effected during the GST regime would be available as CGST / SGST credit as per section 142(11)(c) of the CGST Act.

It is opportune to mention at this stage that there is a saving clause in section 142(11)(a) and (b) of CGST/ SGST Act, which states that transactions liable to VAT/ service tax would not be exigible to GST in case the provision of time of supply under the GST also stands attracted to the very same transaction. There is no such saving clause mentioned for excise duty (i.e. for goods manufactured and cleared from April 2017 to June 2017) but sold after June 2017 (e.g.: clearances made on sale or approval basis prior to July 2017, sold after July 2017). However, N.No.12/17 CE dt.30.6.17 grants exemption in the case of goods manufactured prior to 30.6.2017 but cleared/ supplied after 1.7.2017, provided GST is leviable on such goods.
Illustration

Please specify which of the following supplies would form part of reporting under turnover for the period April 2017 to June 2017

(a) Goods were manufactured and cleared from a factory on 1.6.2017 on sale or approval basis. The goods were not approved by the recipient and returned back on 25.12.2017.

Reply: Since the goods were not approved and returned after the stipulated period of 6 months, the value of the said supplies would not be included in turnover in the audited financial statements. However, as per the 2nd proviso to Section 142(12) of the CGST Act since the goods were returned after 6 months from appointed date (i.e. 1.6.2017), GST would be payable for the tax period December 2017. Though the transaction originated in the period April 2017 to June 2017, the turnover will not be reflected under this Sl.No. However, one may reflect such adjustment under Part II, sl. No. 5 Clause O – ‘Adjustments in turnover due to reasons not listed above’ as addition.

(b) Goods were manufactured and cleared from a factory located in Bangalore on 30.4.2017. The goods were cleared to its showroom located in Hyderabad and eventually been sold from there on 30.8.2017. The audit under the GST Law will be conducted for Bangalore GSTIN.

Reply: The said goods are liable to excise duty since the goods have been cleared on 30.4.2017. The goods would not form part of turnover as per the financial statements since it is a branch transfer. It would stand reflected as branch transfers under the State Level VAT laws. Since audit is being conducted for Bangalore GSTIN and since supply has occurred from Hyderabad GSTIN, it would not be necessary to make adjustments for the period April 2017 to June 2017.

(c) Services were provided during the period June 2017. The service was completed on 20.6.2017, but invoice for the service was raised only on 1.8.2017.

Reply: Since the invoice was raised after a period of thirty days, service tax is liable to be paid for the period ending June 2017 as per the proviso to Rule 3(a) of the Clause of Taxation Rules. Since the said transaction is liable to service tax, it is not liable to GST as per Section 142(11)(b) of the CGST Act, though the invoice is raised during the GST regime. Therefore, the said value of invoice must be deducted for the period April 17 to June 2017.

(d) Continuous supply of service in the nature of telecommunication service has been provided for the period 1.6.2017 to 30.6.2017. The bill is raised on 3.7.2017. The bill is payable by the customer only on 21.7.2017. Should the revenue be recognised in the month of June 2017 and reduced from total turnover or should it form part of turnover for the period July 17 to March 18 since the due date for payment of consideration is 21.7.2017. The entity recognised the revenue in the month of June 17.

Reply: As per proviso to Rule 3(b) of the Clause of Taxation Rules, 2011, the point of taxation in the impugned case would be the date on which bill has been raised i.e. 3.7.2017. Though
invoice has been raised in the GST regime, service tax is payable since service has been provided during the currency of the Finance Act, 1994. The date for payment of service tax as per the machinery provision i.e. POTR, 2011 may be 3.7.2017 but the said service would be liable to service tax because the charge u/s 66B gets attracted for the period June 2017. Further as per S.142(11)(b) since the if a transaction is liable for service tax, then tax would not be payable under the GST Laws. Hence the said amount should be deducted as turnover under this Sl. No. for the period April 17 to June 17.

(e) Service has been provided in the month of May 17 amounting to ₹ 1,00,000/-. Invoice has been raised within 30 days. There was a deficiency in the provision of service. The customer has paid only ₹ 20,000/-. The company has issued credit note amounting to ₹ 80,000/- on 31.3.2018 and closed the customer’s account. Should any amount be reduced for the period April 2017 to June 2017. Are any adjustments required to be made for the period July 2017 to March 2018?

Reply: As per S.142(2)(b) of the GST Act, where in pursuance of contract entered into prior to the appointed date, where the price of service is revised downwards after 1.7.2017 and the provider issues a credit note within 30 days of such price revision, such credit note shall be deemed to have been issued in respect of outward supply, provided the recipient has reduced his input tax credit. Assuming the input tax credit is reduced by the recipient, the credit note shall be reduced from outward supply for the tax period March 2018. Thus ₹ 80,000/- would be reduced from the GST turnover for the period of March 2018. The said amount of ₹ 80,000/- would be reduced from the turnover in the month of March 2018 because credit note is issued in the month of March 2018. Thus, only ₹ 20,000/- is required to be reduced for the period April 2017 to June 2017, though invoice for ₹ 1,00,000/- is issued in the month of May 2017 and service tax is paid on ₹ 1,00,000/- in the month of May 2017.
returns to be filed. There could be an adjustment made to the receivable and payable in the books of accounts. Care should be exercised to extract the information of credit note that only calls for reduction of the turnover.

Auditor has to disclose the practice adopted for collating relevant information from the books of accounts and the basis for determining the adjustments eligible for reconciliation purposes.

Sl. No. 5K. Adjustments on account of supply of goods by SEZ units to DTA Units

Such outward supplies are not required to be reported by SEZ units in their GST Returns and hence the data cannot be retrieved from the returns filed by such SEZ units.

SEZ units are required to maintain records of the assets / goods admitted into the SEZ unit and also the details of disposal of such goods. Such records can assist an Auditor in identifying the outward supply made by the SEZ unit. Additionally, disposal of capital goods would be disclosed as deletion in the Fixed Asset Registers.

Sl. No. 5L. Turnover for the period under composition scheme

There may be cases where Registered Persons might have opted out of the composition scheme during the year. Their turnover as per the audited Annual Financial Statement would include turnover both as composition taxpayer as well as normal taxpayer. Therefore, the turnover for which GST was paid under the composition scheme shall be declared under this Sl. No. 5L.

A person registered under the composition scheme who has opted out of the scheme should file both GSTR 9 and GSTR 9A. An Auditor may note that even a person violating the conditions stipulated in Section 10 of the CGST Act or Rule 5 of the CGST Rules or Notification CT 8/2017 dated 27/06/2017 would stand to exit the scheme. In such cases, the composition person should file Form COMP-4 and opt out of the scheme.

Sl. No. 5M. Adjustments in turnover under section 15 and rules thereunder

There may be cases where the taxable value and the invoice value differ due to valuation principles under section 15 of the CGST Act, 2017 and rules thereunder. Therefore, any difference between the turnover reported in the Annual Return (GSTR 9) and turnover reported in the audited Annual Financial Statement due to difference in valuation of supplies shall be declared here.

In terms of Section 9 of the CGST Act, GST is applicable on supplies of goods or services on the value of supply as determined under Section 15. Section 15 of the CGST, 2017 provides that the transaction value (value at which the supply has been transacted) would be the basis for the computation of tax when two conditions are satisfied

1. The price actually paid or payable should be the sole consideration for the supply; and
2. The supplier and the recipient are not related.
Even if the price for a supply is agreed to be the transaction value, few adjustments (provided for under Section 15 itself) are required to be carried out to such price for the purpose of the computation of value on which GST is required to be paid.

Valuation Rules also provide instances where the value of a transaction as per the financial records can be significantly different from the value to be considered for discharge of taxes under the GST. There may be cases where the taxable value and the invoice value differ due to valuation principles under Section 15 of the CGST Act and rules thereunder. Therefore, any difference between the turnover reported in the Annual Return (GSTR 9) and turnover reported in the audited Annual Financial Statement due to differences in the valuation of supplies shall be declared here.

**Sl. No. 5N. Adjustments in turnover due to foreign exchange fluctuations (+/-)**

Any difference between the turnover reported in the Annual Return (GSTR9) and turnover reported in the audited Annual Financial Statement due to foreign exchange fluctuations shall be declared here.

**Illustration**

1. **PQR Limited has exported goods to a Company located in USA. The value of goods is $100,000. The exchange rate (Rs/$) on the date of filing Shipping Bill is**

   - **CBEC Notified** ₹ 65
   - **RBI Reference Rate** ₹ 68

   *At the time of receiving money, the bank exchanged the foreign currency at ₹ 70.*

   **Solution:** For the purpose of GST Returns, the exchange rate would be ₹ 65 and the exports to be disclosed in the GST Returns would be ₹ 65,00,000. For the purpose of accounting records, the exchange rate would be ₹ 68 and the exports recorded in the books would be ₹ 68,00,000. The difference in revenue being ₹ 300,000 would have to be **reduced** from the Annual turnover as per the financials to arrive at the revenue as per GSTR 9.

   Additionally, difference in the amount booked in the accounts and actual amount received being ₹ 70 – ₹ 68 = ₹ 2 x $100,000 = ₹ 200,000 would be credited to the Profit and Loss Account as Forex Gain which again needs to be **reduced** from the Annual turnover as per the financials to arrive at the revenue as per GSTR 9.

2. **PQR Limited has exported goods to a Company located in USA. The value of goods is $100,000. The exchange rate (Rs/$) on the date of filing Shipping Bill is**

   - **CBEC Notified** ₹ 65
   - **RBI Reference Rate** ₹ 68

   *At the time of receiving money, the bank exchanged the foreign currency at ₹ 66.*
Solution: For the purpose of GST Returns, the exchange rate would be ₹ 65 and the exports to be disclosed in the GST Returns would be ₹ 65,00,000. For the purpose of accounting records, the exchange rate would be ₹ 68 and the exports recorded in the books would be ₹ 68,00,000. The difference in revenue being ₹ 300,000 would have to be **reduced** from the Annual turnover as per the financials to arrive at the revenue as per GSTR 9.

Additionally, the difference in the amount booked in the accounts and actual amount received being ₹ 66 − ₹ 68 = (-) ₹ 2 x $100,000 = (-) ₹ 200,000 would be debited to the Profit and Loss Account as Forex Loss which again needs to be **added** from the Annual turnover as per the financials to arrive at the revenue as per GSTR 9.

**Sl. No. 5O. Adjustments in turnover due to reasons not listed above (+/-)**

Clause 5O is a residuary Sl.No. which requires disclosure of reconciliation details relating to adjustments for which specific column is not provided under any other Sl.No.s under Item No. 5. This Sl.No. may contain an option to insert multiple line items to add / reduce the amount from the gross turnover declared in the audited Annual Financial Statements so as to reconcile the same with the turnover declared in Form GSTR 9.

**Sl. No. 5P: Annual turnover after adjustments as above**

The reconciliation statement in Sl.No.5P is auto-populated and based on the values declared against Sl. Nos. 5B to 5O.

**Sl. No.5Q: turnover as declared in Annual Return (GSTR 9)**

Clause 5Q requires a taxable person to disclose his turnover as per the Annual Return i.e., GSTR 9 filed for the relevant financial year. Therefore, the turnover arrived at Sl.No. 5N as per the Annual Return in GSTR – 9 should be declared under Sl.No. 5Q. Accordingly, the Annual Return in GSTR – 9 should be filed along with or before filing the reconciliation statement in Form GSTR – 9C.

The turnover arrived at Sl.No. 5P of Form GSTR 9C as stated earlier, should match with the turnover as declared in the Annual Return if the turnover is reckoned appropriately as per the GST law and declared in the returns filed in GSTR – 3B and the annual return in GSTR – 9. The turnover as arrived at Sl.No. 5N of the Annual Return in Form GSTR 9 shall be the turnover to be declared against Sl.No. 5Q.

The turnover as declared in the monthly return in GSTR – 1 by virtue of which the same is declared in the annual return in GSTR – 9 may not include all the taxable outward supplies on account of omissions or errors. Such differences in the turnover should not be adjusted under Sl.No. 5O for the purpose of matching the turnover between the annual return and the audited annual financial statements. The turnover as arrived at Sl.No. 5N of the Annual Return in Form GSTR 9 shall be declared against Sl.No. 5Q of GSTR 9C. The differences in turnover as per the audited annual financial statement and the turnover as per the annual return in GSTR – 9 should be reconciled and the reasons thereof should be mentioned at Part II Sl. No. 6.
Sl. No. 5R: non-reconciled turnover (Q-P)

The un-reconciled turnover at Sl. No. 5R is the difference between the ‘Annual turnover after adjustments as above’ at Sl.No. 5P and ‘turnover as declared in the Annual Returns (GSTR 9)’ as declared at Sl.No. 5Q. The difference would be auto generated.

The value of supplies either taxable, exempted or non-GST outward supplies not declared in the monthly returns and annual returns would form part of the auto-generated value at Sl.No. 5R. The reasons for such un-reconciled turnover should be given under Part II Sl. No. 6 of the reconciliation statement in GSTR – 9C. This could lead to any one of the following two situations:

(i) The ‘Annual turnover after adjustments as above’ at Sl.No. 5P is higher than the ‘turnover as declared in the Annual Return (GSTR 9)’ at Sl.No. 5Q:

This situation arises if a taxable person has not declared some taxable outward supplies, exempted supplies and non-GST outward supplies. The value of taxable supplies forming part of the differences should be declared under Part III Sl. No. 11 and the applicable taxes thereon shall be paid appropriately by cash. The differences in exempt supplies and non-GST outward supplies shall be declared against Part II Sl. No. 7B or 7C as the case may be and reduction from the total turnover may be sought.

(ii) The ‘Annual turnover after adjustments as above’ at Sl.No. 5P is lower than the ‘turnover as declared in the Annual Return (GSTR 9)’ at Sl.No. 5Q:

This situation may arise if a taxable person has erroneously declared a higher turnover in the monthly return in GSTR – 3B and the annual return in GSTR – 9. The reconciliation statement in GSTR – 9C does not specifically provide to claim the benefit of tax paid erroneously. The statement which would be made available on the GST portal should be checked to verify whether the taxable value at Sl. No. 11 may be declared in the negative so that refund of tax remitted on such turnover can be claimed. Clarification on this issue is awaited.

Sl. No. 6- Reasons for Un - Reconciled difference in Annual Gross turnover

This portion of GSTR 9C identifies the turnover differences to be placed on record for explaining the differences between the GST Returns and the Audited Financials. All the information filled up in the GST returns has to be flown from the Books of Accounts. However, the un-reconciled turnover on account of disclosure norms as per the Accounting Standard issued by the ICAI or other statutory provisions or practices adopted by the Registered Person a on special approval basis, which are not reconciled at turnover level should be disclosed in this Sl.No..

For instance, the mechanism for the determination of Revenue in case of Sale of a Capital Asset shall differ for the value to be disclosed in the GST Returns compared with that of the practice adopted in the Book of Accounts

Examine the turnover available as per the Audited Financial Statements with that of the Annual turnover determined as per GSTR 9. Information available in Notes to Accounts as per the Audited
Financial statements gives the additional information for the Exceptions if any to the regular practice of maintenance of the Books of Accounts.

Information has to be compared on equitable basis for clarity on what is to be compared as turnover considered in the Financial Statements with that of the turnover compared in the GST Returns. For instance, turnover on the sale of Fixed Assets should be considered for the whole consideration value in the GST Returns. However, only Profit/ Loss on such sale shall be considered in the Books of Accounts. For having an equitable basis for both the turnovers, we need to gross up the Profit/Loss in the Books of Accounts for a matching comparison with the GST Returns.

The Auditor shall make a reference to the basis for reconciliation of the turnover related adjustments called for on the basis of the information available in the Notes to Accounts and any special adjustments caused by reference to other statutory requirements.

The Auditor needs to report whether the Books and Returns can be compared and quantify the reasons duly justifiable for the discrepancies reported, if any.

The Auditor should make a disclosure regarding the reasons that come in the way of the reconciliation process or concluded for sake of clarity on taxable nature.

**Sl. No. 7B. Value of Exempted, Nil rated, Non-GST supplies, No-Supply turnover**

<table>
<thead>
<tr>
<th>7</th>
<th>RECONCILIATION OF TAXABLE TURNOVER</th>
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</thead>
<tbody>
<tr>
<td>7A</td>
<td>Annual Turnover after Adjustments (From 5P Above)</td>
</tr>
<tr>
<td>7B</td>
<td>Value of Exempted, Nil Rated, Non-GST supplies, No-Supply Turnover</td>
</tr>
</tbody>
</table>

Clause 7B requires reduction of value of Exempted, Nil rated, Non-GST supplies, No-Supply turnover from the Annual turnover after adjustments to arrive at taxable turnover.

All the supplies on which tax has not been charged except for exports and reverse charge supplies should be reported under Clause 7B. The information can generally be obtained from the credit side of the Profit and Loss account. In case of a barter transaction, the sale of fixed assets at loss etc would not appear in the profit and loss account. Therefore, that information shall be obtained from the Fixed assets schedule or the stock register. The value of No-supply can be taken as reported in the Books.

Clause 7B essentially comprises the following 4 classes / types of supplies:

(a) Supplies taxable at a ‘NIL’ rate of tax; currently there are no goods / services under ‘NIL’ rate category

(b) Supplies that are wholly or partially exempted from CGST, SGST or IGST, by way of a notification; E.g.: Milk, water, education service, health care services, etc.,

(c) Non-taxable supplies as defined under Section 2(78) of the CGST Act – supplies that are not taxable under the Act (viz. alcoholic liquor for human consumption).
(d) No supplies include the activities covered under Schedule III which are neither a supply of goods nor a supply of services. Examples- Sale of land or completed building, actionable claims, other than lottery, betting, and gambling.

Illustration

The following supplies would form part of the reporting under value of Exempted, Nil rated, Non-GST supplies, No-Supply turnover in the case of a hospital:

(a) Consultation fees received by the hospital ₹ 2,50,00,000/- (Exempted supply)

(b) Diagnostic services provided by the hospital ₹ 40,00,000/- (Exempted supply)

(c) Excess petrol available in the hospital sold to a related party ₹ 10,000/- (Non-GST supply)

(d) Land sold by the hospital ₹ 5,00,00,000/- (No-supply)

Sl. No. 7C. Zero rated supplies without payment of tax

<table>
<thead>
<tr>
<th>7C</th>
<th>Zero rated supplies without payment of tax</th>
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</table>

Clause 7C of GSTR 9C requires disclosure of value of zero-rated supplies without the payment of tax which forms part of the 'Annual turnover after adjustments (from 5P above)' at Sl.No. 5P. This should also consist of the value of zero-rated supplies which have not been declared in the monthly return / annual return erroneously for the reason that the adjusted turnover at Sl.No. 5P contains even such zero-rated supplies. Therefore, such value of zerorated supplies should be deducted from the adjusted annual turnover arrived at Sl.No. 5P so as to claim exemption. In short, the zero-rated supplies as recorded in the audited annual financial statements should be declared against Sl.No. 7C provided such zero-rated supplies have also not been declared in monthly returns filed for the period April to September following the relevant financial year.

Zero rated supply under the provisions of GST law means:

- Exports of goods or services or both.
- Supply of goods or services or both to SEZ developer /SEZ unit

The source of information for zero-rated supplies shall be obtained from the outward supply statement in GSTR – 1 and revenue register forming part of books of accounts. The outward supply statement filed in GSTR -1 shall be correlated with the zero-rated supplies declared in the monthly returns in GSTR – 3B.
SI No. 7D - Supplies on which tax is to be paid by recipient on reverse charge

<table>
<thead>
<tr>
<th>7D</th>
<th>Supplies on which tax is to be paid by the recipient on reverse charge basis</th>
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</table>

Section 2(98) defines reverse charge to mean a case where liability to pay tax is on recipient of supply of goods or service instead of supplier u/s 9(3) and 9(4) of CGST/ SGST Act or S.5(3) or 5(4) of IGST Act.

The Auditor has to verify if the supplier has more than one vertical. One of them vertical must be on forward charge and one on reverse charge. The vertical on reverse charge should be taken under 'supplies on which tax is to be paid by recipient on reverse charge basis'.

Data entered Table 4B of GSTR 1 (Supplies attracting tax on reverse charge) should be taken as the source for this information. The data would have been entered in Table 4B providing invoice level details.

The aforesaid information should be also entered in Table 3.1(c) (Other outward supplies – Nil rated, exempted) of GSTR 3B.

Table 7 provides for ‘Reconciliation of taxable turnover’. Table 7A starts from the Annual turnover after adjustments. The data in Table 7A is auto populated from entries in Table 5P, which refers to ‘Annual turnover after adjustments. From the said turnover, the following turnovers are reduced:

(a) Value of the exempted turnover
(b) Nil rated turnover
(c) Non-GST turnovers
(d) No Supply turnovers
(e) Zero rated turnover made without payment of tax

In light of the above, if can be inferred and concluded that the data to be entered under SI.No. 7D is supplies made by the supplier, on which tax is to be paid by the recipient.

It is reiterated at the sake of repetition that expenses on which tax is paid by Registered person as recipient of service should not be inserted in this column and reduced from Annual Adjusted turnover since table 7 is seeking to reduce items from Annual turnover after adjustments to arrive at turnover of Registered person which is liable to tax.

In case the invoice does not contain the declaration required under Rule 46 or credit has not been reversed under Rule 39, 42 or 43 or tax has been wrongly collected by the supplier on services liable for reverse charge (and retained by the supplier), then such infractions should be reported in the Audit Report because the Audit Report has to have disclosures regarding non-maintenance of records and documents/ observations and inconsistencies relating to reversals of credit.
Illustration

Please state which of the following are liable to reverse charge

(a) GTA issued a consignment note on 1.1.18. The consignment notes charges GST @ 12%. The consignor has booked the GTA. The recipient has paid the freight to GTA on ‘to collect’ basis. Would this turnover be mentioned in Table 7D?

(b) GTA issued a consignment note on 1.1.18. The consignment note does not charges GST. The consignor has booked the GTA. The recipient has paid the freight to GTA on ‘to collect’ basis. Would this turnover be mentioned in Table 7D?

(c) Advocate Mr. X has provided legal service and charged GST of ₹ 18 on his invoice of ₹ 100. The advocate’s client has paid 118 to the advocate. The advocate has remitted ₹ 18 to government and is of the opinion that the aforesaid transaction should not be reduced in Table 7D. Is the stand taken by the advocate correct?

Solution

1. The Consignment note contains GST @ 12%, so reverse charge does not attract as per N.No.13/17 CT (R) w.e.f 22.8.10. Hence tax has to be paid by GTA under forward charge, and this transaction should not be entered in Table 7D.

2. Since consignment note has not charged GST @ 12%, reverse charge provisions would apply. Tax is to be paid by the person liable to pay freight, that is, the recipient and not the GTA under forward charge. Because of this, the impugned transaction has to be entered in Table 7D.

3. Supplies by a Registered Person, whose suppliers are liable for reverse charge, are to be inserted in Table 7D. Legal service provided by the advocate to his client is liable for reverse charge (assuming all other conditions in reverse charge notification stand satisfied). Hence the impugned transaction should be inserted in Table 7D. GST wrongly collected and paid by the advocate under forward charge will not change the fact that the aforesaid service is liable to reverse charge and hence merits insertion in Table 7D.

It must be ensured that if the supplier has turnover which is liable to both forward charge and reverse charge then the turnover liable to reverse charge should be accounted in FORM 7D. It may be ensured for purposes of control that the aggregate of turnover under forward charge and reverse charge is the total turnover.

Sl. No. 7F - taxable turnover as per liability declared in Annual Return

<table>
<thead>
<tr>
<th>7F</th>
<th>Taxable turnover as per liability declared in Annual Return (GSTR9)</th>
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</table>

Clause 7F of GSTR 9C requires that the taxable turnover as per the liability should be declared in the Annual Return (GSTR 9).
Instruction as per GSTR 9C - taxable turnover as declared in Table 4N of the Annual Return (GSTR 9) shall be declared here. The information must flow from GSTR 9 which contains supplies and advances on which tax is paid. The turnover arrived at Part II Sl. No. 8F of Form GSTR 9C should match the turnover as declared in the Annual Return.

Sl. No.8 Reasons for Un - Reconciled difference in Taxable Turnover

<table>
<thead>
<tr>
<th></th>
<th>Reasons for Un - Reconciled difference in Taxable Turnover</th>
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<tbody>
<tr>
<td>A</td>
<td>Reason 1</td>
</tr>
<tr>
<td>B</td>
<td>Reason 2</td>
</tr>
<tr>
<td>C</td>
<td>Reason 3</td>
</tr>
</tbody>
</table>

This part of GSTR 9C identifies the taxable turnover differences to be placed on record for explaining the differences between the GST Returns and the Audited Financials. All the information filled up in the GST returns has to flow from the Books of Accounts. However, the un-reconciled turnover on account of disclosure norms as per the Accounting Standard issued by the ICAI or other statutory provisions or practices adopted by the Registered Person on special approval basis, which are not reconciled at turnover level should be disclosed in this Sl. No.

For instance, the mechanism for the determination of Revenue in case of Sale of a Capital Asset shall differ for the value to be disclosed in the GST Returns compared with that of the practice adopted in the Book of Accounts.

The data which has to be filled up in this table is drawn out of Sl. No.s 5, 6, 7. Further, review of the transactions effected through the E-Way Bill gives details about the exceptional transactions, if any, to be reported through the above reconciliation.

Illustration

The following illustrations can be considered for reporting the reconciliation differences:

(a) Zero-rated supply made by the Registered person during the previous year. If the conditions relevant for the supply have not been complied by the Registered person, then the supplies can be construed to be regular supplies.

(b) Transaction reported in a delivery challan during the financial year for supply on sale or approval basis beyond a period of six months shall be deemed to be supply under the GST. However, that may not be a sale for revenue recognition in the books of accounts for such a transaction. Assuming the GST returns carry the supply details and no revenue recognition has been done in the books of accounts, this shall call for reconciliation.

(c) Exemption conditions not fulfilled by the Registered person while exercising the option to supply either a Nil rated or Exemption, shall be reported as Regular Supply.

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Part III: Reconciliation of tax Paid

After reconciling the turnover declared and reported in the Audited Financial Statement with turnover declared in Annual Return along with reasons for reconciliation if any, the relevant Part III of Form 9C requires an Auditor to reconcile the rate-wise liability of tax, total amount payable thereon with tax actually paid as declared in the Annual Return and recommendation of additional tax payable due to non-reconciliation of the taxable value.

<table>
<thead>
<tr>
<th>Pt. III</th>
<th>Reconciliation of tax paid</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>Reconciliation of rate wise liability and amount payable thereon</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Description</th>
<th>Taxable Value</th>
<th>Central tax</th>
<th>State tax/ UT tax</th>
<th>Integrated Tax</th>
<th>Cess, if applicable</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>A</td>
<td>5%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B</td>
<td>5% (RC)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C</td>
<td>12%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>D</td>
<td>12% (RC)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>E</td>
<td>18%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>F</td>
<td>18% (RC)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>G</td>
<td>28%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>H</td>
<td>28% (RC)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>I</td>
<td>3%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>J</td>
<td>0.25%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>K</td>
<td>0.10%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>L</td>
<td>Interest</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>M</td>
<td>Late Fee</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>N</td>
<td>Penalty</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>O</td>
<td>Others</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>P</td>
<td>Total amount to be paid as per tables above</td>
<td>&lt;Auto&gt;</td>
<td>&lt;Auto&gt;</td>
<td>&lt;Auto&gt;</td>
<td>&lt;Auto&gt;</td>
</tr>
<tr>
<td>Q</td>
<td>Total amount paid as declared in Annual Return (GSTR 9)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R</td>
<td>Un-reconciled payment of amount</td>
<td></td>
<td></td>
<td></td>
<td>PT 1</td>
</tr>
</tbody>
</table>

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The relevant Table 9 requires the Auditor to provide details of taxable value along with the Gross tax Liability booked by the Registered Person whose Form 9C is being filed by him. The said tax liability needs to be reported rate wise in Table 9. Further, the taxable value and liability of tax on which the given Registered Person is required to pay tax under Reverse Charge Mechanism are also required to be reported rate-wise separately. After reporting of the same, the details of Total tax payable for the Financial Year 2017-18 as declared in GSTR 9 i.e. under the Annual Return is also required to be disclosed. The given table also requires the disclosure of Interest, Late Fees and Penalty Payable.

From the scheme of Table 9 it is clear that the Auditor is required to report the GST payable rate wise dissected total taxable turnover calculated in Table 7E under Part II of GSTR 9C. Once the taxable value is reported under various rates as specified in sub-parts A, C, E, G, I, J, and K, the relevant amount of tax shall be calculated by the system.

The values that are to be reported in Table 9 should be taxable value as reported under Table 7E of GSTR 9C, i.e. Adjusted Total turnover for the FY 2017-18 under the GST and the amount of tax (rate wise) should be derived mathematically.

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Reasons for un-reconciled payment of amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Reason 1</td>
</tr>
<tr>
<td>B</td>
<td>Reason 2</td>
</tr>
<tr>
<td>C</td>
<td>Reason 3</td>
</tr>
</tbody>
</table>

The given table mandates the Auditor to identify and disclose the reasons for un-reconciled payment of amount of tax, Interest, Penalty, Cess and Others. Reasons, amounts along with description of reason needs to be disclosed.

(A) GSTR 3B shows less/more tax paid
- GSTR 1 matches with the audited financials with regard to the tax payable
- GSTR 3B shows the tax paid differently from the books of accounts.

In this situation, even though Table 6 and 8 may not show any differences as given in point (i) above, Table 10 would show a difference of the amount of tax to be paid and tax actually paid. So, any tax payable occurring due to this would automatically form part of Table 11 and the Auditor’s recommendations in Part V.

In case any excess tax has been paid, there will be no reporting in Table 11. There is also no provision of negative reporting in Table 11.

(B) GSTR 1 and GSTR 3B inter se matching but not with the Audited Financials

- GSTR 3B and GSTR 1 match with each other
- Matched GSTR 1 and GSTR 3B are different with regard to the audited financial statements.

Such differences would be depicted in Table 6, 8 and 10. If the turnover is lesser than what it is in the audited financials, they could indicate a short payment of tax, if differences thereof are not explained. The cause of the differences needs to be clearly identified. Taking the values after considering the audited financial statements Table 10 will be compared with the actual tax paid as per GSTR 3B. As there is a difference between the audited financial statements and GSTR 3B, an unreconciled difference would be shown in Table 10.

(C) Taxable turnover as per the books matching in GSTR 1 and GSTR 3B but tax is not matching.

- The value of taxable supply in Form GSTR 3B matches with that in GSTR 1
- Tax payable as self-assessed in GSTR 3B is different from what is shown in GSTR 1.

The possible reason for the same can be because of the difference in the classification of supply in GSTR 1 and GSTR 3B. The reporting shall be required in Table 10 only in such cases where an error has occurred in Form GSTR 3B due to reasons of classification like the following
  - HSN Disputes
  - GST rate disputes
  - Inter State vs Intra State Supply
  - Place of Supply
  - Type of Supply Dispute- taxable, Exempt, Nil rated

As the amount of tax in Table 9P shall be calculated on the basis of turnover reported and shall be treated as correct. Any deviation from the same shall be disclosed in Table 10.
It has to be ensured that for the whole amount of non-reconciliation reported in Table 9, the reason wise quantification of the same is done in Table 10.

Sl. No. 11: Additional amount payable but not paid (due to reasons specified under Tables 6, 8 and 10 above)

<table>
<thead>
<tr>
<th>11</th>
<th>Additional amount payable but not paid (due to reasons specified under Tables 6, 8 and 10 above)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>To be paid through Cash</td>
</tr>
<tr>
<td>Description</td>
<td>Taxable Value</td>
</tr>
<tr>
<td>5%</td>
<td>2</td>
</tr>
<tr>
<td>12%</td>
<td>2</td>
</tr>
<tr>
<td>18%</td>
<td>2</td>
</tr>
<tr>
<td>28%</td>
<td>2</td>
</tr>
<tr>
<td>3%</td>
<td>2</td>
</tr>
<tr>
<td>0.25%</td>
<td>2</td>
</tr>
<tr>
<td>0.10%</td>
<td>2</td>
</tr>
<tr>
<td>Interest</td>
<td>2</td>
</tr>
<tr>
<td>Late Fee</td>
<td>2</td>
</tr>
<tr>
<td>Penalty</td>
<td>2</td>
</tr>
<tr>
<td>Others (please specify)</td>
<td>2</td>
</tr>
</tbody>
</table>

In the Table 11 under Part III of the GSTR 9C, the amount of tax, interest, penalty, late fees and their dues which are payable in accordance with the non-reconciliation reported under Table 6, 8 and 10 but not actually paid as declared in Annual Return in GSTR 9 are to be reported with rate-wise bifurcation.

A) For Additional tax Payable

After due verification and analysis of the amounts along with reasons reported in Table 6, 8 and 10 in the GSTR 9C pertaining to non-reconciliation of Annual Gross turnover, taxable turnover and tax payable, the details of taxable value needs to be identified GST rate-wise which should be reported in Table 11 on which appropriate tax has not been paid as declared in the Annual Return i.e. Form GSTR 9.

There may be several reasons due to which amounts may be reported in Table 6 and 8. However, in the case of amounts reported in Table 6, reasons for non-reconciliation may be due to difference in timing or due to a permanent difference in turnover as per the books of
accounts and the GST Returns. However, every non-reconciliation might not lead to a situation where there is a requirement to pay GST on the said difference.

Some examples where non-reconciliation is reported in Table 6 in Form GSTR 9C but shall not require any additional tax payment are illustrated as under:

— Difference in turnover where the time of Supply is postponed but revenue is recognized in books of accounts (Supply between Developer and Landlord in light of Notification No 04/2018-CT rate)

— Difference in the value of Export turnover reported in the books of accounts on the basis of Invoice value shown in the Shipping Bill whereas turnover reported in GSTR 1 on the basis of Invoice prepared in INR on the basis of Exchange rate applicable on the date of preparation of Invoice.

— Difference in turnover of Services due to tax paid on advances and shown in GSTR 1 but not required to be disclosed as turnover in the Audited Financial Statements.

— Difference in turnover due to disclosure of Profit / Loss on Sale of Fixed Assets in the Audited Financial Statements and disclosure of whole sale proceeds in GST Returns.

In the given cases, no reporting is required to be done in Table 11.

Further, in other types of non-reconciliations reported in Table 6, there can be an impact on the tax Liability to be paid. The instances for the same shall principally cover such cases where there is difference in taxable turnover in GST Returns and the Adjusted Total turnover. These set of differences which shall have impact on tax Liability shall actually be a part of Table 8 again.

However, out of such non-reconciliation filtered out and reported in Table 8, a further filter of non-reconciliation shall be reported in Table 10 regarding tax Liability which should have been paid on un-reconciled turnover reported in Table 8, but the same was not paid as declared in GSTR 9, i.e. the Annual Return.

Since Table 11 requires the disclosure of Additional tax Liability payable and not paid on non-reconciliations, it is evident that such details shall be reported in Table 10 also.

B) For Interest, Penalty and Late Fees Payable

The method suggested for calculating Interest, Late Fees and Penalty shall be employed to find the Gross amounts and difference of amounts not reported in GSTR 9 shall be required to be disclosed in the given Table.

PART IV

Sl. No. 12 – Reconciliation of Net ITC

12A. ITC availed as per audited Annual Financial Statement for the State/ UT (For multi-GSTIN units under same PAN this should be derived from books of accounts)

<table>
<thead>
<tr>
<th>Pt. IV</th>
<th>Reconciliation of Input Tax Credit (ITC)</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>Reconciliation of Net Input Tax Credit (ITC)</td>
</tr>
</tbody>
</table>

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Clause 12A of GSTR 9C is the detail of ITC availed in the audited financial statements. The row aims to collect information on the ITC availed in the books of accounts by the Registered person. This shall be the total ITC including the one availed in the books of accounts on Inputs, Input Services and Capital Goods.

Right in the beginning, information of all the tax account codes / ledger names should be obtained from the Registered person in which he enters the ITC availed. ITC availed (after reversals) as per the audited Annual Financial Statement shall be declared here. There may be cases where multiple GSTINs (State-wise) registrations exist on the same PAN. This is common for persons / entities with presence in multiple States. Such persons / entities would have to internally derive their ITC for each individual GSTIN and declare the same here. It may be noted that reference to the audited Annual Financial Statement includes reference to books of accounts in case of persons / entities having presence in multiple States. Further, it is important to understand from the Registered person whether he has maintained separate ledgers for availing ITC for different States or a common one.

12B. ITC booked in earlier Financial Years claimed in current Financial Year

Any ITC which was booked in the audited Annual Financial Statement of the earlier financial year(s) but availed in the ITC ledger in the financial year for which the reconciliation statement is being filed shall be declared here. Since this is the first year of the GST, this column should ideally be zero. However, as per the instruction related to the form, transitional credit which was booked in earlier years but availed during Financial Year 2017-18, the same would not be required to be reported here. This would leave the Registered person with ITC which are carry forward balances of the earlier taxes.

However, from next year onwards, this column would have the same amount as is reported in column 12C of Form 9C of the previous financial year. Hopefully, the same should be auto populated by the system. There can be a scenario also where an Input tax credit which related to FY 2017-18 was not booked in the books in FY 2017-18 inadvertently and was also not claimed in GSTR 3B of FY 2017-18. However, during reconciliation of returns during FY 2018-19 the claim was taken in both the books of accounts as well as GSTR 3B filed during FY 2018-19, such cases would not be reported in this column.

12C. ITC booked in current Financial Year to be claimed in subsequent Financial Years

Clause 12C of GSTR 9C is the Input tax Credit which is booked in the current financial year but claimed in the returns of GSTR 3B filed during FY 2018-19. This includes all credits which were for
any reason (inadvertent or conditions not being fulfilled) were not taken in returns as filed from July 2017- March 2018.

All amounts which are debited in the books of accounts but not claimed as Credit should be reported here. The Auditor must run a check to arrive at Input tax Credits which appear in the GST receivable ledgers but do not find place in the Input tax register providing amounts as reported in GSTR 3B of FY 2017-18. The difference of such unclaimed balance shall be reported here.

Value in this Sl.No. should be equal to the amount reported in Clause 13 of GSTR 9. However, amount of Credits relating to FY 2017-18 which are booked in FY 2018-19 only in the books of accounts shall be subtracted from such reported amount in Clause 13 of GSTR 9.

Illustration

The Input tax credit as booked in the GST receivable ledger for the month of August 2017 includes the following:

(a) Input tax credit on purchase of inputs claimed in GSTR 3B of August 2017: ₹ 3,00,000
(b) Input tax credit on purchase of inputs claimed in GSTR 3B of December 2017: ₹ 150,000
(c) Input tax credit on purchase of inputs claimed in GSTR 3B of May 2018: ₹ 2,00,000

Ans. The reporting of the following transactions shall be made in this column:

Input tax credit on purchase of inputs claimed in GSTR 3B of May 2018: ₹ 2,00,000

12E. ITC Claimed in Annual Return (GSTR 9)

Clause 12E of GSTR 9C Net ITC available for utilization as declared in Table 7J of Annual Return (GSTR 9) shall be declared here.

12F. And 13 Unreconciled ITC

<table>
<thead>
<tr>
<th>12F</th>
<th>Un-reconciled ITC</th>
</tr>
</thead>
</table>

Clause 12F of GSTR 9C provides for the difference between the ITC as computed from the books of account in Clause 12D and ITC as claimed for the financial year in Clause 7J of Annual return. Reasons for such difference shall be explained in point 13 of GSTR 9C.

<table>
<thead>
<tr>
<th>13</th>
<th>Reasons for un-reconciled difference in ITC</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Reason 1</td>
</tr>
<tr>
<td>B</td>
<td>Reason 2</td>
</tr>
<tr>
<td>C</td>
<td>Reason 3</td>
</tr>
</tbody>
</table>

While 12F is the differential value and has no source. Clause 13 seeks reasons from the books of accounts and claims in GSTR 9 for the difference. In case the difference is positive, possible reasons of difference should primarily include:

— the amount of ITC for the financial year claimed in point 13 of the Annual return form which
is the amount of ITC claimed in returns of the subsequent year for the financial year.

— the amount of ITC available but not availed which can be divided in two further categories:
  o Ineligible ITC not availed in the return
  o ITC which has lapsed as not availed

In case the difference is negative, the matter is of concern as it is a clear indication of more than available ITC claimed. This could be on account of the following reasons:

— ITC of another GSTIN claimed in returns of GSTIN under audit
— IGST on imported goods used as FOC replacement warranty (customs duty + IGST paid by Exporter of original equipment.
— Duplicate ITC availed
— ITC of subsequent year where goods / services were received later but their invoice was received prior was availed.

Sl. No. 13 seeks reasons from the books of accounts and claims in GSTR 9 for the difference.
14. Reconciliation of ITC declared in Annual Return (GSTR 9) with ITC availed on expenses as per audited Annual Financial Statement or books of account

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
<th>Amount of Total ITC</th>
<th>Amount of eligible ITC availed</th>
</tr>
</thead>
<tbody>
<tr>
<td>A Purchases</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B Freight / Carriage</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C Power and Fuel</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>D Imported goods (Including received from SEZs)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>E Rent and Insurance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>F Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>G Royalties</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>H Employees’ Cost (Salaries, wages, Bonus etc.)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>I Conveyance charges</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>J Bank Charges</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>K Entertainment charges</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>L Stationery Expenses (including postage etc.)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>M Repair and Maintenance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>N Other Miscellaneous expenses</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>O Capital goods</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>P Any other expense 1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Q Any other expense 2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R Total amount of eligible ITC availed</td>
<td></td>
<td>&lt;&lt;Auto&gt;&gt;</td>
<td></td>
</tr>
<tr>
<td>S ITC claimed in Annual Return (GSTR9)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>T Un-reconciled ITC</td>
<td></td>
<td></td>
<td>ITC 2</td>
</tr>
</tbody>
</table>

This table is for reconciliation of ITC declared in the Annual Return (GSTR 9) against the expenses booked in the audited Annual Financial Statement or books of account. This point calls for examination of ITC detailed by the Auditor to determine the available ITC as booked in ledgers of various expenses and in the books of accounts viz a viz the ITC availed by the Registered person. In case the Auditor finds any ineligible or unavailable ITC as per the books of accounts, suitable disclosures are to be made in this regard.
Illustration: The Input tax credit as booked in purchase account is as follows:

(a) ITC on purchase of raw material: ₹ 1,50,000 (Purchase value: 20,00,000)
(b) ITC on purchase of consumable: ₹ 60,000 (Purchase value: 4,00,000)
(c) ITC on purchase of food items for staff: ₹ 12,000 (Purchase value: 120,000)
(d) ITC availed by the registered person from the Purchase account: ₹ 222,000 Ans. The reporting of the following transactions shall be made in this column:

➢ value of Purchases: 25,20,000
➢ Amount of Total ITC: 222,000

Amount of eligible ITC availed: ₹ 210,000

15. Reasons for un-reconciled difference in ITC

<table>
<thead>
<tr>
<th></th>
<th>Reasons for un-reconciled difference in ITC</th>
</tr>
</thead>
<tbody>
<tr>
<td>A B C</td>
<td>Reason 1</td>
</tr>
<tr>
<td></td>
<td>Reason 2</td>
</tr>
<tr>
<td></td>
<td>Reason 3</td>
</tr>
</tbody>
</table>

Reasons for non-reconciliation between ITC availed on the various expenses declared in Table 14R and ITC declared in Table 14S shall be specified here.

This column is auto populated as it is a calculation of difference between Table 14R and 14S. This is the differential amount between the eligible availed ITC and the availed ITC. Difference can arise on any of the following counts:
- Ineligible ITC availed by the Registered person
- ITC booked in the books of accounts but not availed including ineligible ITC not availed (lapsed)

In case of a negative amount, such difference can arise on account of ITC booked in the books of accounts but availed in return GSTR 3B of the subsequent year. This can be correlated with point 13 of GSTR 9.

16. Tax payable on un-reconciled difference in ITC (due to reasons specified in 13 and 15 above)

Any amount which is payable due to reasons specified in Table 13 and 15 above shall be declared here.
Part V to GSTR 9C

Auditor’s Recommendation on additional liability due to non-reconciliation

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
<th>Central tax</th>
<th>State tax / UT tax</th>
<th>Integrated tax</th>
<th>Cess, if applicable</th>
</tr>
</thead>
<tbody>
<tr>
<td>5%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>18%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>28%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0.25%</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>0.10%</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Input Tax Credit</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interest</td>
<td></td>
<td></td>
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<td></td>
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<td>Late Fee</td>
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<tr>
<td>Penalty</td>
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<tr>
<td>Any other amount paid for supplies not included in Annual Return</td>
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Part V consists of the auditor’s recommendation on the additional liability to be discharged by the taxpayer due to non-reconciliation of turnover or non-reconciliation of input tax credit. The auditor shall also recommend if there is any other amount to be paid for supplies not included in the Annual Return. Any refund which has been erroneously taken and shall be paid back to the Government shall also be declared in this table. Lastly, any other outstanding demands which is recommended to be settled by the auditor shall be declared in this Table.

Some issues

(a) Is the additional liability determined by the Auditor binding on the Registered person?

✓ At the outset, it can be inferred from the heading to Part V of GSTR 9C that the Auditor has only a recommendatory power, for recommendations given by the Auditor may or may not be acceptable to the Registered Person. If it is acceptable, there are no further questions. But if it is not acceptable, then the question that arises is how can the Auditor resolves the issue.

✓ At this juncture, the Auditor needs to exercise his professional diligence, skill, legal knowledge and care in determining any additional tax liability which is payable by the
Registered Person. The Registered Person has the option to accept, reject or partially accept the recommended additional tax liability. In line with such recommendations, though not explicitly stated anywhere in the relevant Form or GST laws –

(i) the Registered Person can choose to make the payment of the additional tax liability in full or in part;
(ii) the Registered Person can even choose to reject the complete recommendations of the Auditor and not make the payment at all.

✓ Before an Auditor ventures into recommending any additional tax liability due care, caution and diligence must be exercised. For instance, in respect of commodity classification based on HSN if an Auditor believes that there are two possibilities then he may choose to place reliance on an expert opinion. In such a situation, a proper disclosure may suffice.

✓ However, when looked at from the perspective of the government, the recommendation shall form the foundation for an effective show cause notice and enquiry into the affairs of the Registered Person.

(b) Scope of the Auditor’s review for recommendation

✓ On a perusal of the heading to Part V of GSTR 9C, it appears that the responsibility of the Auditor is restricted to report only the additional liability which may arise on account of non-reconciliation matters only. An Auditor may take the view that he is not required to step into the shoes of an investigator to mine any undisclosed supplies which are neither reported in the annual return nor in the financial statements. But at this point in time the instruction provided to fill in the relevant GSTR 9C plays an important role.

✓ Para 7 of the instructions provided to the relevant GSTR 9C makes it clear that apart from recommending any additional tax liability that may arise on account of reconciliations matters, an Auditor is also required recommend:

   o cases relating to supplies that are not reported in the annual return;
   o refunds erroneously taken;
   o any outstanding demands that may be settled by the Registered Person.

✓ Performing this reconciliation accurately and analysing reasons for the differences falls within the domain of the Auditor’s responsibility. Making disclosures in respect of the differences which are accurate, exhaustive and understandable form an intrinsic part of his duty.

(c) Reasons for additional tax liability

✓ Non-reconciliation between the books of accounts and the annual return can either occur (among other reasons) in respect of the turnover, tax paid or availment of the
input tax credit. Any additional tax liability that may arise due to non-reconciliation between the turnovers or the tax payable on such turnovers would be reported in Table 11 of GSTR 9C. Further, any additional tax liability arising due to non-reconciliation of the input tax credit are to be disclosed in Table 16 of GSTR 9C. The amount reported in these two tables would be summarized and reported in Part V of the GSTR 9C.

✔ Additional tax liability may arise on account of any other amount paid for supplies not included in the annual return, erroneous refund to be paid back, outstanding demands to be settled, etc., (if any).

<table>
<thead>
<tr>
<th>Verification</th>
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<tbody>
<tr>
<td>I hereby solemnly affirm and declare that the information given herein above is true and correct to the best of my knowledge and belief and nothing has been concealed there from.</td>
</tr>
<tr>
<td><strong>Signature and stamp/seal of Auditor</strong></td>
</tr>
<tr>
<td>Place: Name of Signatory</td>
</tr>
<tr>
<td>Date: Membership No.</td>
</tr>
<tr>
<td>Full address</td>
</tr>
</tbody>
</table>

Understanding “Verification” under GSTR 9C

I. In terms of Rule 80(3) of the CGST rules, 2017 the relevant “verification” portion to the reconciliation statement in Form GSTR 9C reads as under:

II. The verification part of the said GSTR 9C is quite crucial in so far as the GST Auditor is concerned. Several important words and phrases are used in this part, such as “solemnly affirm, declare, true and correct, knowledge and belief, conceal etc.,”. An understanding of the true import of these words is crucial for understanding the manner in which the Auditor is expected to meet his professional obligation.

III. According to The Random House Dictionary the word solemn means “serious or earnest” and the word affirm means “confirm, establish or ratify”. A solemn affirmation is ratification under a statute.

IV. In the case of Dilip N. Shroff V. Joint Commissioner of Income tax, 2007 (219) ELT 15 (SC) their lordships extracted the meaning of the word “conceal” from the Law Lexicon which reads: “to hide or keep secret. The word “conceal” is con + celare which implies to hide. It means to hide or withdraw from observation; to cover or keep from sight; to prevent the discovery of; to withhold knowledge of. The offence of concealment is, thus, a direct attempt to hide an item of income or a portion thereof from the knowledge of the income tax authorities.”
In the very same judgement in para 67 and 68 the Honourable Supreme Court goes on to analyse certain phrases, which are relevant and reproduced below:

‘Concealment of income’ and ‘furnishing of inaccurate particulars’ are different. Both concealment and furnishing inaccurate particulars refer to deliberate act on the part of the Registered person. A mere omission or negligence would not constitute a deliberate act of suppressio veri or suggestio falsi. Although it may not be very accurate or apt but suppressio veri would amount to concealment, suggestio falsi would amount to furnishing of inaccurate particulars.

The authorities did not arrive at a finding that the consideration amount fixed for the sale of property was wholly inadequate. The authorities also do not show the inaccurate particulars furnished by the Appellant. They also do not state what should have been the accepted principles of valuation. We, therefore, do not accept the submissions of the learned Additional Solicitor General that concealment or furnishing of inaccurate particulars would overlap each other, the same would not mean that they do not represent different concepts. Had they not been so, the Parliament would not have used the different terminologies.

To conclude, malafide or dolus molus becomes a pre-requisite to prove an act of concealment. While every action is not malafide – negligence, carelessness, recklessness coupled with intention to withhold information tantamount to malafide. It is reiterated that mere failure to provide information or providing inaccurate information also would not amount to concealment.

V Certificate and Report: A certificate is a written confirmation of the accuracy of the facts stated therein and does not involve any estimate or opinion. It is certification of factual accuracy of what is stated therein.

A report, on the other hand, is a formal statement usually made after an enquiry, examination or review of specified matters under report and includes the reporting an opinion thereon. It is giving an opinion based on factual data and that is arrived at by the application of due care and skill.

Module I – Certification in cases where the reconciliation statement (FORM GSTR 9C) is drawn up by the person who had conducted the audit and GST audit certification

Hierarchy of Clauses for Certification

Step 1: ‘Examine’ the ‘financials’

Step 2: Based on such ‘audit’, report that books of account, etc. under the GST Acts have or have not been maintained

Step 3: Report the following observations / comments / discrepancies / inconsistencies, if any:
Step 3(b): Report further whether:

Step 3(b) (A): Information and explanations has / has not been obtained which were necessary

Step 3(b)(B): Proper books of accounts have / have not been kept Step 3(b)(C): Financials are/are not in agreement with the books

Step 4: State whether GSTR 9C and other relevant documents are annexed

Step 5: Particulars in GSTR 9C are ‘true and correct’ subject to observations / qualifications:

Step 5(a): ……………………….

Step 5(b): ……. refer list of matter’s for Auditor’s attention listed below………

Step 5(c): ………………………

Step 6: Signature and Stamp and Seal of the Auditor duly disclosing the date, place and full address

Module II – Certification in cases where the reconciliation statement in (GSTR 9C) is drawn up by a person other than the person who had conducted the audit of the accounts

Hierarchy of Clauses for Certificate

Step 1: Audit conducted by another Auditor and a copy of the Audit Report and Financials to be annexed

Step 2: Even without conducting audit, report whether books of account, etc. under the Act have / have not been maintained; It means the Auditor has to analyse, understand and check the nature of books and records that are to be maintained or have / have not been maintained;

Step 3: Report the following observations / comments / discrepancies / inconsistencies Step 4: State whether GSTR 9C is annexed

Step 5(a): Now ‘examine’ books of accounts and other relevant documents Step

5(b): Then, particulars in GSTR 9C are true and correct subject to:

Step 5(c): ………………………

Step 5(d): …….refer list of matter’s for the Auditor’s attention listed below………

Step 5(e): ………………………

Step 6: Signature and Stamp and Seal of the Auditor duly disclosing the date, place and full address
7.1.11 Format of Audit report under the GST law: Form GST ADT - 04

Form GST ADT-04

[See Rule 102(2)]
Reference No. :

Date :

To,

Reference No. :

GSTIN ………………………………
Name …………………………………
Address ………………………………

Information of Findings upon Special Audit

Your books of account and records for the F.Y………………….. has been examined by ……………………….. (chartered accountant/cost accountant) and this Audit Report is prepared on the basis of information available/documents furnished by you and the findings/discrepancies are as under :

<table>
<thead>
<tr>
<th>Short payment of</th>
<th>Integrated tax</th>
<th>Central tax</th>
<th>State/UT tax</th>
<th>Cess</th>
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<tbody>
<tr>
<td>Tax</td>
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<td>Interest</td>
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<tr>
<td>Any other amount</td>
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[Upload pdf file containing audit observation]

You are directed to discharge your statutory liabilities in this regard as per the provisions of the Act and the rules made thereunder, failing which proceedings as deemed fit may be initiated against you under the provisions of the Act.

Signature ......................................
Name ............................................
Designation .................................
TEST YOUR KNOWLEDGE

Theoretical Questions

1. Mr. A engaged in business as a sole proprietor presented the following information to you for the FY 2018-19. Turnover made during the year ₹ 124 lacs. Goods returned in respect of sales made during FY 2017-18 is ₹ 20 lacs not included in the above. Cash discount allowed to his customers ₹ 1 lac for prompt payment. Special rebate allowed to customer in the nature of trade discount ₹ 5 lacs. Kindly advise him whether he has to get his accounts audited u/s 44AB of the Income Tax Act, 1961.

2. Comment with respect to computation of total sales, turnover or gross receipts in business exceeding the prescribed limit under Section 44 AB of Income Tax Act, 1961.
   (i) Discount allowed in the sales invoice
   (ii) Cash discount
   (iii) Price of goods returned related to earlier year
   (iv) Sale proceeds of fixed assets.

3. Write a short note on - Method of accounting in Form No. 3CD of Tax Audit.

4. ABC Printing Press, a proprietary concern, made a turnover of above ₹ 1.03 crore for the year ended 31.03.2019. The Management explained its auditor Mr. Z, that it undertakes different job work orders from various customers. The raw materials required for each job are dissimilar. It purchases the raw materials as per specification/requirements of each customer and there is hardly any balance of raw materials remaining in the stock except pending work-in-progress at the year end. Because of variety and complexity of materials, it is impossible to maintain a stock-register. Give your comments.

5. A Co-operative Society having receipts above ₹ 1 crore gets its accounts audited by a person eligible to do audit under Co-operative Societies Act, 1912, who is not a Chartered Accountant. State with reasons whether such audit report can be furnished as tax audit report under Section 44AB of the Income-tax Act, 1961?


7. State whether a Tax audit report can be revised and if so state those circumstances.

8. Briefly discuss the provisions given under section 66 regarding Special Audit required under CGST Act.

9. ABC Ltd is a printing company with aggregate turnover exceeding rupees 2 crores. XYZ & Associates is a Chartered Accountant firm which has been appointed for GST audit of ABC Ltd. Mr Sandhu, Chartered Accountant from XYZ & Associates, observes on 23 July 2019
that ABC Ltd has not filed its GSTR 3B for the month of July & its GSTR-1 return is also not complied with. What should Mr Sandhu advise the client before conducting GST audit of ABC Ltd.

**Multiple Choice Questions**

1. Jain Ltd is a medium sized company having operations in Ghaziabad and Lucknow. The corporate office of the company is based at Delhi. During the year due to certain migration in the ERP package of the company, the financial statements were finalized very late but were filed with the regulatory authorities on time as per the requirements of the statute. For the financial year ended 31 March 2018, the due date of filing income tax return of the company was 31 October 2018 and tax audit was also applicable to the company.

Since the company was facing internal disturbances, its tax audit could not get completed on time and the company decided to submit its income tax return on time and form 3CD and tax audit report later on (i.e. after the due date of filing income tax return once that is properly audited).

Please suggest which of the following would be correct in this case.

(a) Company is doing right by filing income tax return on time without tax audit report.

(b) Company’s move is not right. Income tax return should be filed along with tax audit report.

(c) Company is doing the right thing by filing income tax return on time. In the given situation, the company may choose not to file tax audit report for the current year.

(d) Company should take written advise from a tax consultant about this and should attach that along with income tax return if tax audit report is not being filed.

2. Nisha Ltd is engaged in the business of trading of chemicals. Nisha Ltd is a small size company but on the basis of turnover criteria, tax audit becomes applicable to the company. The company has been filing its income tax returns on time in the previous years and understands that the objective of the tax audit is to ensure that proper books of accounts are maintained by the assesses. Considering the fact that company is also required to get its accounts audited as per the requirements of the Companies Act 2013, it would like to avail exemption from tax audit. If that is not possible then the company would go for tax audit report from an accountant who is cost effective. In this context, please suggest which of the following should be correct.

(a) Company can avail tax audit exemption in the given situation.

(b) Company cannot avail tax audit exemption but it may be exempt from submitting the tax audit report from a Chartered Accountant.
(c) Company can avail tax audit exemption, however, the statutory auditor in that case would be required to cover the same in his statutory audit report.

(d) Company cannot avail tax audit exemption and would need to get this done from a Chartered Accountant.

3. RJ & Associates have been the statutory auditors of SH & Co, a partnership firm, for many years. Tax audit of SH & Co was performed by KJ & Associates. During the year ended 31 March 2018, KJ & Associates resigned as tax auditors of SH & Co due to their personal reasons. SH & Co appointed RJ & Associates as its tax auditor for the year ended 31 March 2018. The engagement letter of RJ & Associates as statutory auditors of SH & Co was already signed and RJ & Associates moved ahead without signing another engagement letter for tax audit since most of the terms related to engagement were covered in the engagement letter of statutory audit except additional scope and fee which was principally agreed between both the parties. Please suggest which of the following is correct in the given situation.

(a) RJ & Associates need not sign another engagement letter for tax audit.

(b) RJ & Associates need to sign another engagement letter for tax audit.

(c) RJ & Associates need not sign another engagement letter for tax audit. However, they should ensure that the same thing is covered in the engagement letter for next year i.e. year ending 31 March 2019.

(d) RJ & Associates need not sign another engagement letter for tax audit if the fee for tax audit is within the range of 5-10% of statutory audit fee.

4. ABC & Co LLP is a firm of Chartered Accountants having 5 partners. The firm specializes in taxation work and also has large no of statutory audits and tax audits of corporate entities and non-corporate entities. During the financial year ended 31 March 2018, the firm has received various requests for new tax audits. On the basis of limit assigned in respect of tax audit assignments by a Chartered Accountant/ firm of Chartered Accountants, please suggest which of the following would be correct.

(a) Firm can accept 300 tax audits assignments (in total) to be signed by its 5 partners.

(b) Firm can accept 300 tax audits of corporate entities and 300 tax audits of non-corporate entities to be signed by its 5 partners.

(c) Firm can accept 300 tax audits of corporate entities, 300 tax audits of non-corporate entities and more by outsourcing the same to Chartered Accountants outside the firm, however, all these will be signed by its 5 partners.

(d) Since the firm specializes in taxation work, it cannot accept 300 tax audit assignments.
5. AOP Pvt Ltd is currently engaged in closing its books of accounts for the financial year ended 31 March 2019. The company has always been a compliance-savvy and has also engaged consultants for the same. The business of the company has been stable over the years and profitability has been good over the last 3 years.

The company got registered for GST on time. Since registration the company has been filing statement of returns GSTR 3B. However, Annual Return in GSTR 9 has not been filed by the company.

Proper Officer issued a notice for failure to file Annual Return within 15 days. Even then, no Annual Return was filed by the company within the time permitted. Please advise

(a) In such a case, the company becomes a ‘non-filer’.
(b) In such a case, the company would remain fully compliant.
(c) The Proper Officer would be required to discuss this matter with the GST auditors of the company.
(d) GST auditor may resign in this situation.

6. Rajeev Ltd is a listed company having business of production of motion pictures. For the year ended 31 March 2018, the company wanted to appoint GST auditor. For the purpose, somebody who is familiar with the business of the company/industry was to be preferred for appointment i.e. who would have worked with the company in the past to avoid efforts/duplication in terms of providing the information to get the GST audit completed. The company had following options for the same. Please advise.

(a) Internal auditors can be appointed for this work.
(b) Both statutory and internal auditors can be jointly appointed for this work.
(c) Internal auditors along with the tax consultants of the company can be appointed for this work.
(d) Statutory auditors can be appointed for this work.

Answers to Theoretical Questions

1. Turnover limit for the purpose of Tax Audit: The following points merit consideration as stated in the Guidance note on Tax Audit issued by the Institute of Chartered Accountants of India-

(i) Price of goods returned should be deducted from the figure of turnover even if the return are from the sales made in the earlier years.

(ii) Cash discount otherwise than that allowed in a cash memo/sales invoice is in the nature of a financing charge and is not related to turnover. The same should not be deducted from the figure of turnover.
(iii) Special rebate allowed to a customer can be deducted from the sales if it is in the nature of trade discount.

Applying the above stated points to the given problem,

1. Total Turnover 124 Lacs
2. Less – (i) Goods Returned 20 Lacs
   (ii) Special rebate allowed to customer in the nature of trade discount would be deducted 5 Lacs

Balance 99 Lacs

As the limit for tax audit is ₹ one crore, he would not be required to get his accounts audited under section 44AB of the Income Tax Act, 1961.

2. **Computation of Sales, Turnover or Gross Receipts:** In the context of section 44AB of the Income Tax Act, 1961, following considerations are required with regard to computation of sales, turnover or gross receipts in business exceeding the prescribed limit under section 44AB of the Income Tax Act, 1961-
   (i) Discount allowed in the sales invoice will reduce the sale price and, therefore, the same can be deducted from the turnover.
   (ii) Cash discount otherwise than that allowed in a cash memo/sales invoice is in the nature of a financing charge and is not related to turnover. Therefore, should not be deducted from the turnover.
   (iii) Price of goods returned should be deducted from the turnover even if the returns are from the sales made in the earlier year/s.
   (iv) Sale proceeds of fixed assets would not form part of turnover since these are not held for resale.

3. **Method of accounting in Form No. 3CD of Tax Audit:** Clause 13 of Form No. 3CD of the tax audit requires to state method of accounting employed in the previous year. It also requires to state the change in method of accounting vis-à-vis the preceding year. If so, details of change and the effect on the profit or loss are to be stated. Also details of deviation thereof if any, from accounting standards prescribed under section 145 and the effect thereof on the profit or loss are stated. Section 145 provide that method of accounting be either cash or mercantile. Hybrid system is not permitted.

4. **Non-maintenance of stock register:** The explanation of the entity for the use of varieties of raw materials for different jobs undertaken may be valid. But the auditor needs to verify the specified job-orders received and the different raw materials purchased for each job separately. The use of different papers (quality, quantity and size) ink, colour etc. may be examined. If possible, the auditor may also enquire with the other similar printers in the
locality to ensure the prevailing custom. At the same time, he has to report and certify under clause 35(b) and clause 11(b) of Form 3CD read with the Rule 6G(2) of the Income-tax Act, 1961, about the details of stock and account books (including stock register) maintained. He must verify the closing stock of raw materials, work-in-progress and finished goods of the concern, at least on the date of its balance sheet. In case the said details are not properly maintained, he has to specifically mention the same with reasons for non-maintenance of stock register by the entity.

5. **Furnishing Audit Report of a Co-operative Society:** As per Section 44AB read with Explanation to Section 288(2) of the Income Tax Act, 1961, “accountant” means a chartered accountant within the meaning of the Chartered Accountants Act, 1949, and includes, in relation to any State, any person who by virtue of the provisions of section 141 of the Companies Act, 2013, is entitled to be appointed to act as an auditor of companies registered in that State.

Accordingly, the person who is not a Chartered Accountant as mentioned in the question, though is eligible to act as auditor of Cooperative Society under the Cooperative Society Act, 1912, but is not eligible to carry out tax audit under Section 44AB of the Income Tax Act, 1961.

Hence, such audit report cannot be furnished as tax audit report under Section 44AB of the Income-tax Act, 1961.

An auditor should conduct routine checking during the course of audit of a public trust, in the following manner:

(i) Check the books of account and other records having regard to the system of accounting and internal control;

(ii) Vouch the transactions of the trust to satisfy that:
- the transaction falls within the ambit of the trust the transaction is properly authorized by the trustees or other delegated authority as may be permissible in law;
- all incomes due to the trust have been properly accounted for on the basis of the system of accounting followed by the trust;
- all expenses and outgoings appertaining to the trust have been recorded on the basis of the system of accounting followed by the trust;
- amounts shown as applied towards the object of the trust are covered by the objects of trust as specified in the document governing the trust.

(iii) Obtain trial balance on the closing date duly certified by the trustee;

(iv) Obtain Balance Sheet and Profit & Loss Account of the trust authenticated by the trustees and check the same with the trial balance with which they should agree.
7. Revision of Tax Audit Report:
   (a) Normally, the report of the tax auditor cannot be revised later.
   (b) However, when the accounts are revised in the following circumstances, the tax auditor may have to revise his tax audit report also.
   (i) Revision of accounts of a company after its adoption in the annual general meeting.
   (ii) Change in law with retrospective effect.
   (iii) Change in interpretation of law (e.g.) CBDT Circular, Notifications, Judgments, etc.

The Tax Auditor should state it is a revised report, clearly specifying the reasons for such revision with a reference to the earlier report.

8. Refer Para 7.1.4

9. The auditor should advise the company to file all the GSTR-3B, GSTR-1 and annual returns before conducting GST audit so that auditor can validate and verify the returns filed by the company, verification of ITC claimed, verification of output GST liability discharged by the company and for collation of return workings and reconciliations. Auditor needs to have a comprehensive picture of -
   (i) Understanding of the back-up of monthly returns as well as annual return and understanding of reports generated by the GSTN portal as well as internal records of the company.
   (ii) Understanding of the eligibility of Input Tax Credit (ITC) availed i.e. whether ITC availed by the company is creditable or not and understanding of reversal of ITC undertaken or applicable (if any).
   (iii) Understanding of the taxability of outward supplies and transactions covered under Reverse Charge Mechanism and other miscellaneous/ specific transactions and understanding of the positions taken on various transactions by the company.

Answers to Multiple Choice Questions
1. (b)  2. (d)  3. (b)  4. (a)  5. (a)  6. (d)