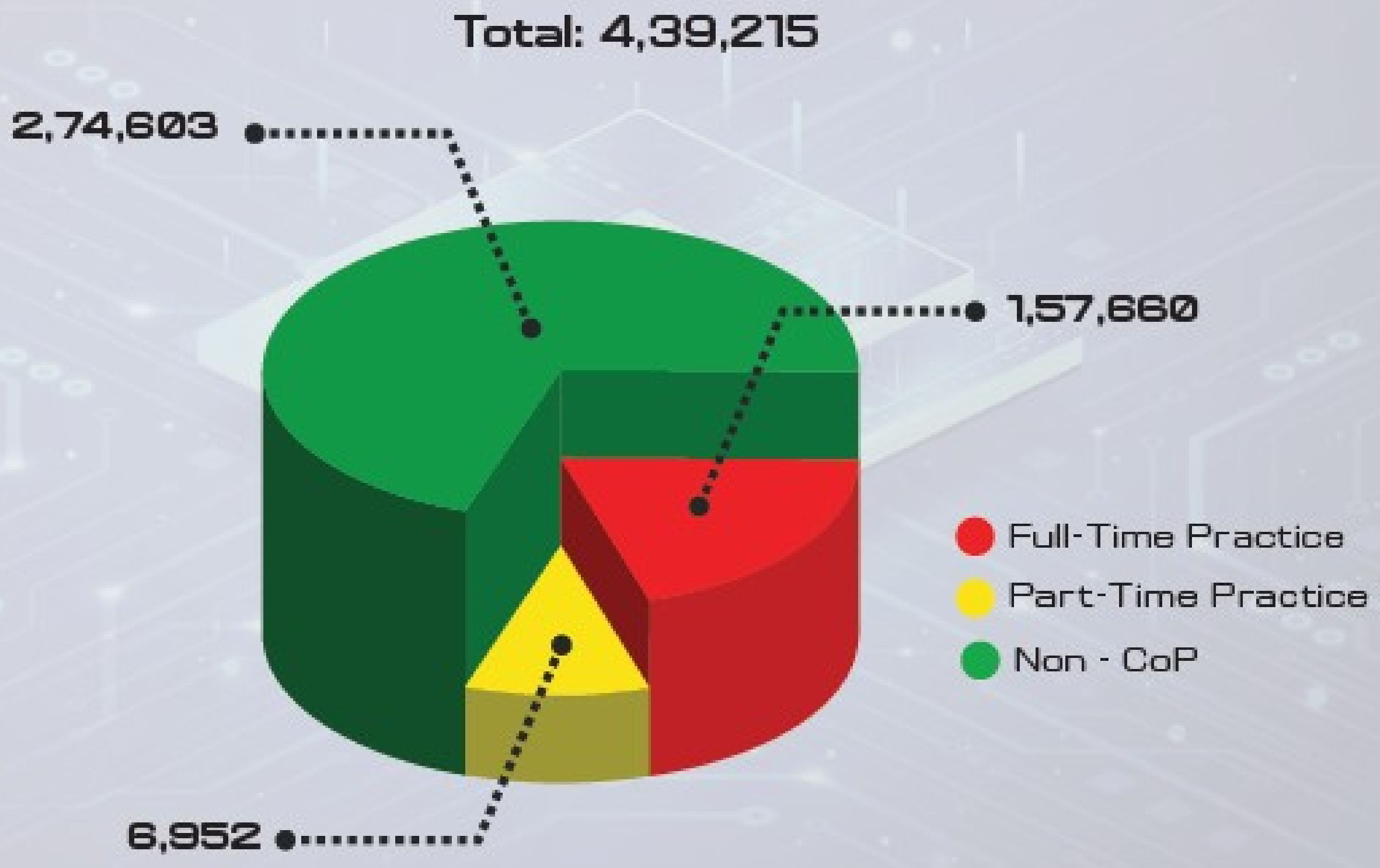
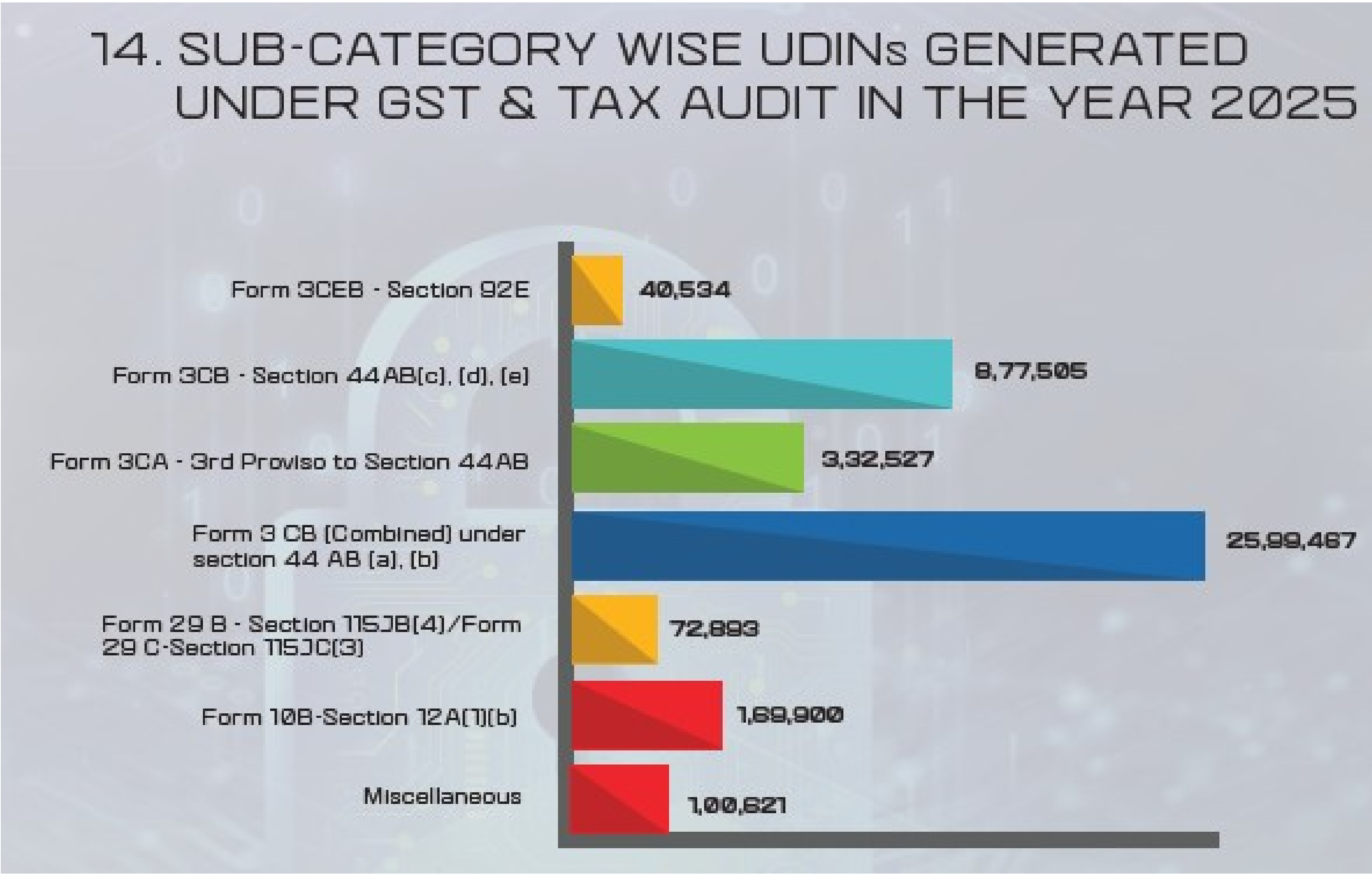
Common issues and non compliances in Tax Audit report

CA Pankaj Shah
Chairman
Tax Audit Quality Review Board

MEMBERS & UDINs

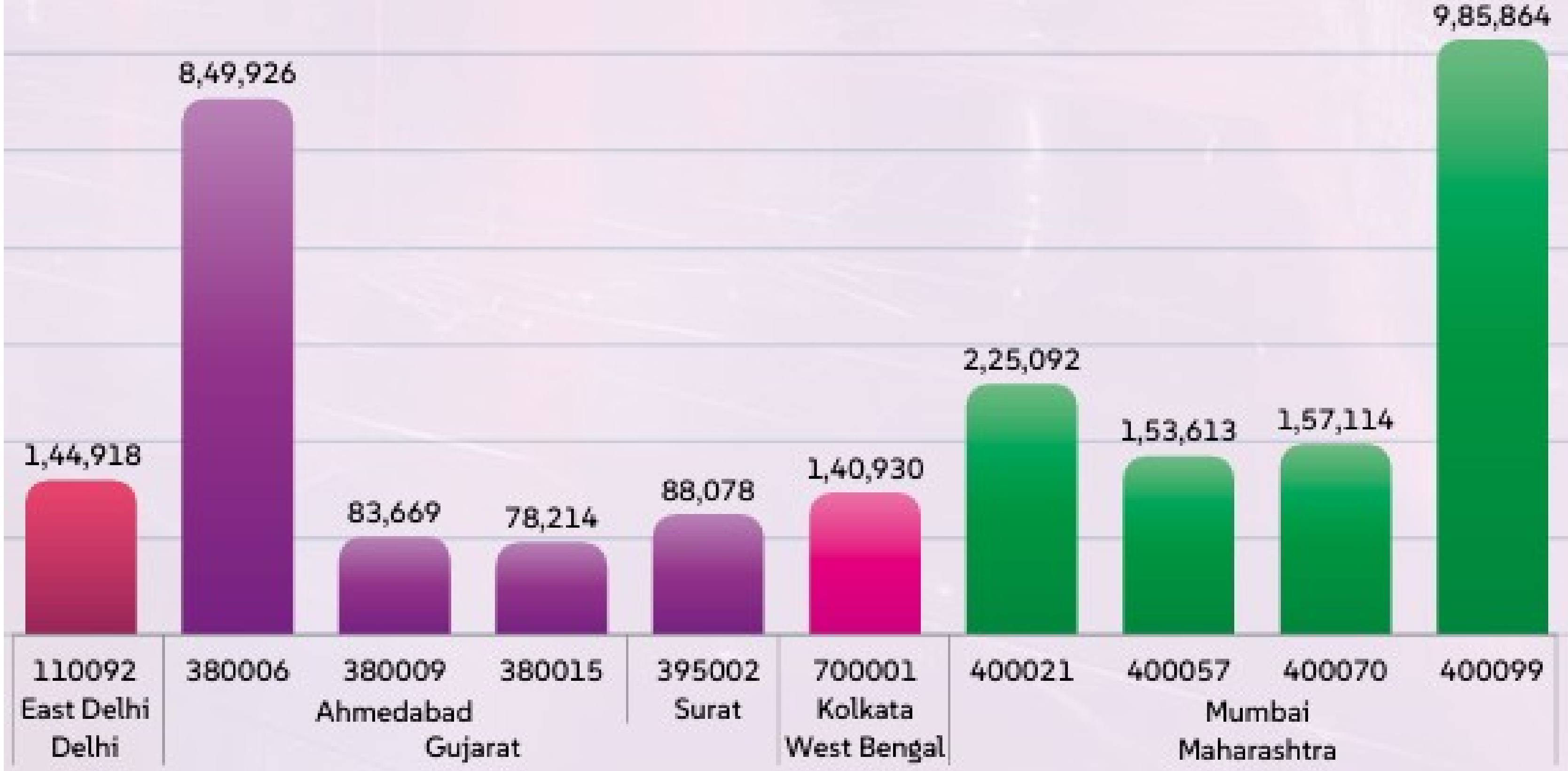
1. ICAI MEMBERSHIP - A GLANCE (Till Jan'26)





3476972 NCE tax audits, 332527 Corporate 3809499

8. TOP 10 GEOGRAPHICAL AREA (BASED ON PINCODE)



(*Note: The provision for capturing the PIN code (for the professional address of members) during UDIN generation was enabled on the UDIN portal w.e.f. 9th February, 2024)

Opportunities emanating from Tax Audit

- MSME benefits
  - Subsidies on expansions, new units, machines
  - Interest rate concession in CC/OD facility
  - Faster recovery of receivables
- Value added services
  - Section 80JJAA deduction feasibility
  - Reversal of Excess interest charged on term loan/CC limit
- Estate and Succession planning services

- New age opportunities
  - DPDP implementation, AI automisation
  - New Labour law code implementation
  - Cyber security implementation
  - Working capital and financial advisory
- SME IPO and fund-raising services

Brand CA - *class apart*

- Supreme Court in case of **T.D. Venkat Rao v. UOI (237 ITR 315)** has upheld the superiority of CAs by noting that

  Chartered Accountants, by reason of their training have special aptitude in the matter of audits and no other person can be held eligible to conduct audit under Section 44AB. Supreme Court further held that CAs are a Class by themselves meaning that CAs are the brand for auditing itself.

Tax Audit

- Firstly an Audit
- General purpose financial statement
- Trueness and fairness of Financials
- Going concern, historical cost, prudence, Materiality
- Psycology – praising, belittling

Common Mistakes in Tax Audits and Disciplinary cases

Is uploading only the Balance Sheet and Profit & Loss Account sufficient or Upload of Complete Financial Statements is required

Audited accounts under Section 44AB with Form 3CB-3CD is uploaded to Income tax portal.

Financial Statements

- Balance Sheet
  Profit & Loss
  Cash Flow (where applicable)
  Notes to Accounts
  Schedules
  Other statements forming part of accounts

Statutory Guidance

Para 11.4 of the Revised 2025 Guidance Note explains the meaning of General-Purpose Financial Statements. It states that the term includes:

- Balance Sheet; Statement of Profit and Loss; Cash Flow Statement, wherever applicable; and other statements and explanatory notes which form part thereof.

Para 18.4 explains the opinion to be expressed by the tax auditor:

- the accounts, read with notes thereon, if any, should give a true and fair view.

Disciplinary Jurisprudence

Missing Notes to accounts and schedules:	• Held guilty for failure to exercise due diligence and gross negligence in the conduct of professional duties. • (PR/196/2022/DD/263/2022/DC/1931/2024, Shri Arun Kumar Khandelia-vs-CA. Ram Awatar Dhoot, Kolkata)
Uploading without mandatory schedules	• Held guilty for failure to exercise due diligence or gross negligence in the conduct of professional duties. • (PR/G/167/2022-DD/101/2022-DC/1894/2024, Ms. Kamna Sharma, Dy. Registrar, O/o. Registrar of Companies, NCT of Delhi & Haryana, MCA, New Delhi -vs-CA. Manmohan Jhawar, Kolkata)
Cash flow statement in the financial statements (wherever applicable) not attached.	• Held guilty for failure to exercise due diligence and gross negligence in the conduct of his professional duties. • (PR/G/60/2022/DD/185/2022/DC/1623/2022, Shri Vineet Rai, ICLS, Dy. ROC, MCA, Kolkata-vs-CA. Anand Chauhan, order dated 26,06,2024.)

Compliance with Partnership deed and Interest on capital not provided

- Tax auditor failed to ensure compliance with partnership deed and solely relied on instructions of other partners without obtaining consent or confirmation from concerned partner
- Certified financial statement where Interest on capital as per deed was not provided and withdrawals were shown in name of partner without authority. Held guilty
  - Seema Lunker, Chennai vs. CA. Prakash Chand (PR/300/2013-DD/16/2014/DC/451/2016) order dated 18.05.19

Compliance with Disclosure requirement of Accounting Standards

- Where the auditor failed to disclose material facts relating
  - to short-term borrowings from the holding company and
  - not reported the **nature of liability as secured or unsecured** and
  - the writing-off of entire stock of raw material and finished goods, which required separate disclosure under Accounting Standards,
- thereby not presenting a true and fair view of the financial statements. Held, guilty
  - M K Sahoo vs. CA Ankita Tibrewal PR/G/233/2021/DD/225/2021/D/1965/2025

Disclosures as per AS-2 and ICDS-2

- ~~Closing Stock~~
- Inventories
  - Finished goods…………,
  - Traded goods………………,
  - Work in progress………………..,
  - Raw materials……………

Failure to apply Accounting Standards

- Where the auditor failed to ensure proper accounting treatment of assets by **<u>not providing depreciation in accordance with Accounting Standards</u>** and did not report such non compliance in audit report, held guilty of gross negligence
  - S. Krishnan Coimbatore vs. CA Raj Sekhar (PR 303/13-DD/293/13-DC/510/2016)

For Non Corporate Assessee

- Accounting Standard 10 – Property Plant and Equipment needs to be complied
- Normally Assessee charges depreciation as per block method
- Such violation may result in
  - Qualification if material impact is there
  - Disclosure if immaterial impact – useful life rates and tax rates now similar

Failure to recognize interest income on Fixed Deposits

- Auditor fails to ensure proper recognition of interest income on fixed deposits as no income was recorded in the Profit and Loss account despite accrual over the years
- Guilty for
  - Gross negligence
  - Not reporting material non-compliance relating to income recognition
- Kamna Sharma ROC vs. CA Ashok Kumar Kher (PR/G/285/2022-DD/2022-DC/1778/2023) order dated 04.02.25

Non mentioning of UDIN

- Guilty of Gross Negligence
  - Shri Arun Kumar Khandelia vs. CA. Ram Awatar Dhoot Kolkata (PR/196/2022/DD/263/2022/D/1931/2024)

Overlooked non deduction of TDS

- Where the Tax Auditor overlooked non deduction of TDS and improper ffication of expenses he was interalia held guilty for gross negligence under Item 7 Part I of Second Schedule

  - A K Mahala vs. Siddharth Shyam Shetye order dated 07.05.24 (PR/262/2016-DD/307/2016/D/1310/2020)

Non-disclosure of related party transactions

Where the auditor failed to report non disclosure of related party transactions, he was held guilty for professional misconduct relating to gross negligence and failure to report material departure from accepted auditing procedures

Shri Trideep Taj Bhandari Jodhpur vs. CA V Balasubramanyan Chennai (PR/230/2014-DD/305/2014-D/651/2014)

Turnover not cross verified with TDS records

- Where the turnover was certified by primarily relying on management without independently verifying it with Form 26AS and TDS details.
- The certification was held misleading and inaccurate and held guilty of professional misconduct of gross -negligence
  - Deepak Verma Dhanbad (PPR/P/360/17-DD/151/INF/18-DC/1219/19)

Misclassification of transactions

Misclassification of Deposits as advances against goods. Guilty for failure to disclose material facts and gross negligence

- CA Ukamanal Anand Mallikarjun (PPR/P/052/18-DD/12/inf/19/DC/1355/2020)

Incorrect classification of Advances as Trade Payable/Receivables

- CA Manoj Kumar Ganeshmal Jain PPR/G/03/2018-DD/03/INF/2020/D/1590/2022

Failure to report misclassification of transactions. Held guilty for gross negligence, Not applying professional skepticism and Issuance of report without proper verification and Violating professional standards

- K.S. Kaushik SFIO vs. CA Ramesh Kumar Maheshwari (PR/235/2016/DD/261/2016/DC/1578/2022)

Issuance of tax audit report without conducting audit

- During search and survey proceedings no audit working papers, audit memos supporting documents were found either at the assesses premises or at CA's office
- Auditor failed to produce audit documentation
- Guilty for
  - gross negligence
  - Failed to perform audit in accordance with professional standards
  - Failure to maintain necessary audit evidence
- JDIT vs. CA Ravi Agarwal (PR/98/11-DD/14/12-DC/332/14)

Reports not signed by client

- Common practice -obtain one signed report from client
- Auditor signs 3 copies and gives to client
- Physical Report signed only by auditor submitted at various forums
- Violation of Section 215 of Companies Act
- Name removed for 1 year
  - *CA. Sandhya Vasandani (M.No.128973)'s case*

Proxy auditor

- Counsel of the Respondent pleaded that his client i.e the Respondent had just signed the financial statements and the actual auditor was CA. Tarang Shah.
- His client had merely signed based on reliance on another auditor and had refunded the fee to CA. Tarang Shah.
- The Committee on the same, clarified to him, that since the signatures on the financial statement and the Audit Report were of the Respondent and hence the accountability for true and fair view of the documents, signed by her, lies with the Respondent only.
- Name removed from the Register of Members for a period of 01(One) year with effect from 24th March, 2023

Undated audit report

- All the audit reports were undated.
- Audit Report was revised without due Procedure
- Misconduct – Gross negligence
    - (V. Ayyadurai vs. M. Rajkumar- Page 408 of Vol. II of Part I of the Disciplinary Casesof April, 2015 Judgement delivered on 10th December, 2013)

Revision of audit report

- Auditor failed to state not only the **reasons for revising the audit report** issued by him
- Also **failed to inform the Charity Commissioner** of Trust that his earlier report should not longer be relied upon.
- Misconduct – Gross Negligence
  - (Shekhar Purushottamrao Kannao vs. Sanjay S. Khandekar Re: [PR-125/13-DD/121/2013/DC /428/2014] Judgement delivered on 7th November, 2017)

Sample

1. **The following Para from the Guidance Note on Tax Audit under section 44AB of the Income-tax Act, 1961 may be noted (AY 2022-23 and Revised 2023) –**

> *'15.12 In case where a member is called upon to report on the revised accounts, then he must mention in the revised report that the said report is a revised report and a reference should be made to the earlier report also. In the revised report, reasons for revising the report should also be mentioned.'*

It was observed that at the end of the Tax Audit Report reason for revising the report is mentioned as 'Wrong rates used for calculating Depreciation'. However, no reference of the earlier report is made in the revised report.

Accordingly, it was opined that the appropriate reporting was not done under this clause.

Common mistakes

Non allowable expenses debited to capital account

- Income tax debited to capital account
- Penalties

No need to give list of Debtors and Creditors.

Non Provision of Interest if NPA account

NFRA order 11.07.2023

- Inventory
  - The auditor is required to attend the physical inventory counting as it forms a considerable part of the financial statement.
  - Also, no working papers were found in the audit file evidencing that the alternative audit procedures were performed by the EP after he failed to perform physical inventory counting on the reporting date.
  - This is a clear violation of SA 501.
- Receivables
  - The auditor failed to obtain **direct confirmation** from **parties having a significant and material balance** of trade receivables and trade payables. Moreover, the auditor failed to perform alternative audit procedures in the absence of confirmations, as required by SA 505.

Common mistakes

- Notes to Accounts
  - “Debtors and Creditors are subject to confirmation”
- Audit Report
  - No comments

Issues in Inventory valuation of Jewellers


GOLD & SILVER
MARKET RATE CHANGE
1 APRIL 2025 vs 31 MARCH 2026
GOLD (24K)
Rate per 10 gram
01 APRIL 2025
₹90,719
per 10 gm
INCREASE
62.3%
31 MARCH 2026
₹1,47,204
per 10 gm
FINE GOLD 999.9
10 g
Gold rate increased by
₹56,485 per 10 gram
SILVER (99.9%)
Rate per kg
01 APRIL 2025
₹1,00,043
per kg
INCREASE
138.2%
31 MARCH 2026
₹2,38,275
per kg
FINE SILVER 999.9
1 kg
Silver rate increased by
₹1,38,232 per kg
OVER THE YEAR (01 APRIL 2025 TO 31 MARCH 2026)
GOLD ▲ 62.3%
SILVER ▲ 138.2%
Source: GoldpriceIndia.com (Market Rates)
Rates are end of day closing rates

Cost formulae

LIFO, FIFO, Weighted Average

142(2A) w.e.f. 01.04.2023

CASE STUDY | SILVER INVENTORY VALUATION

me 120 kg of silver. Different accounting value.

Jeweller starts in 2024 • Silver prices rise • What happens if LIFO is used?

PURCHASE HISTORY

Year	Quantity	Price
2024	100 kg	₹70,000/kg
2025	100 kg	₹90,000/kg
2025-26	100 kg	₹1,50,000/kg

TOTAL PURCHASED

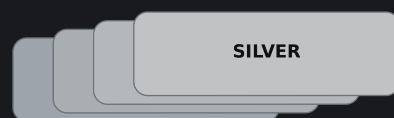
300 kg

180 kg sold → 120 kg closing stock

31 MARCH 2026

120 kg

PHYSICAL SILVER IN STOCK



The quantity is identical.
Only the cost layers change.

CLOSING INVENTORY VALUE

FIFO
₹1.68 crore

WEIGHTED AVG.
₹1.24 crore

LIFO
₹88 lakh

IMPACT **₹80 LAKH**

LIFO lower than FIFO • 47.6%

RISING PRICES + LIFO → OLDEST / CHEAPEST COST LAYERS REMAIN → INVENTORY & NET ASSETS ARE LOWER

Illustrative case study • AS 2: FIFO / Weighted Average permitted; LIFO not permitted for applicable inventories

“Can the Auditor Accept LIFO Merely Because Management Has Certified the Stock?”

“A management certificate can support the existence/quantity of stock.
It cannot convert an impermissible valuation method into a permissible one.”

- **AS 2** — impermissibility of LIFO
- **SA 315** — risk of material misstatement
- **SA 330** — appropriate audit response
- **SA 500** — management certification is not, by itself, sufficient appropriate audit evidence
- **SA 700** — forming the audit opinion
- **SA 705** — qualified/adverse opinion consequences
- **Items (5), (6), (7) & (8), Part I of Second Schedule** — potential professional misconduct

Cost Formulae – FIFO, WEIGHTED AVG.

- **First-in First-out and Weighted Average Cost Formula**
  - 16. Cost of inventories, other than the inventory dealt with in paragraph 13……………..

PARA 13

"13. The Cost of inventories of items

(i) that are not ordinarily interchangeable; and

(ii) goods or services produced and segregated for specific projects shall be assigned by specific identification of their individual costs.

14. 'Specific identification of cost' means specific costs are attributed to identified items of inventory."

Specific Identification method (LIFO)

- Specifically identifiable jewellery stock
- Fixed stock with identifiable hallmark

Audit report - Inventory

- ~~Inventory has been accepted as certified by the management~~

Existence and condition of material asset
Alternative procedures to be applied

In case no. PPR/P/254F/20,16-DD/118/INF/2016/DC/1531/2022] it is interalia held that

Para 24 – The Committee noted that fourth- charge. is that under the head Inventories, it was mentioned that "Inventories as certified and valued by the management" whereas in terms of Guidance Note on Audit of Inventories, the usage of such expression might lead the users of the financial statements to believe that the Auditor had merely relied on the Management Certificate without carrying out any appropriate audit procedures to satisfy him about the existence and valuation of inventories.
Para 24.3 - The committee is of the considered opinion that the Respondent is held Guilty of(7) and (8) of Part I of Second Schedules.....

~~Average Cost Basis~~ vs. Weighted Average cost

- In case no. PPR/P/254F/20,16-DD/118/INF/2016/DC/1531/2022] it is *interalia* held that

22. The Committee noted that **second charge** was related to the significant accounting policies of the Company related to inventories which mentioned that value of Inventory of Raw Material was based on 'Average Cost Basis' whereas, AS 2 prescribes to adopt either FIFO or 'Weighted Average' cost formula to determine the value of inventories. Thus, it was alleged that inventories valued on the basis of 'Average' cost formula was not permissible under AS 2 and the Respondent had failed to report about the same in his Audit Report.

22.1 The Committee noted that the Respondent in his defence had mentioned that inventory was valued on Weighted Average basis only and there was only a typographic error in writing the word 'Weighted in the Significant Accounting Policies. The Respondent had also mentioned that he had not retained the working papers. Accordingly, contention of the Respondent cannot be proved that weighted average method was adopted by the Company.

~~Average Cost~~ vs. Weighted Average

22.2 Thus, looking into above facts vis-à-vis the acceptance of the mistake by the Respondent, the Committee is of view that the plea of the Respondent, that the valuation methodology followed during the previous years was followed, could not be accepted. It was viewed that whenever an auditor state in his report that the financial statements were in compliance with Accounting Standards referred in Section 211 (3C) of the Companies Act, 1956, it is his responsibility to verify the documents, accordingly. In any case, the Respondent had accepted an error in respect of the same. Accordingly, the Committee is of the considered opinion that the Respondent is held **Guilty** of professional misconduct falling within the meaning of Items (5), (6) and (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 with respect to this charge.

Tax Audit Quality Review Board

Three tier structure

- Reviewer
- Group
- Board

Purview of Board

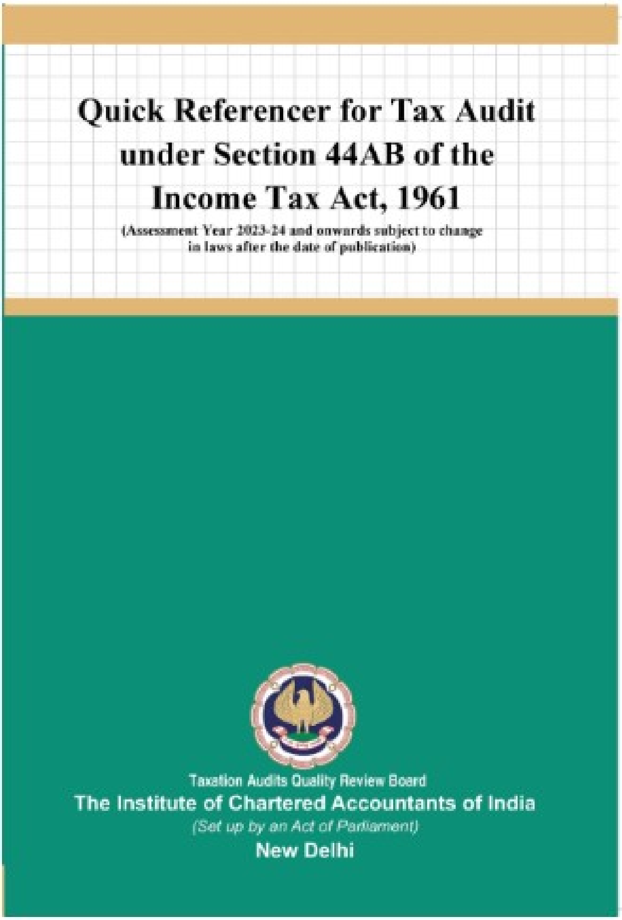
- Ensure compliance with reporting requirements of statute
- Compliance with pronouncements, GN and Technical guides

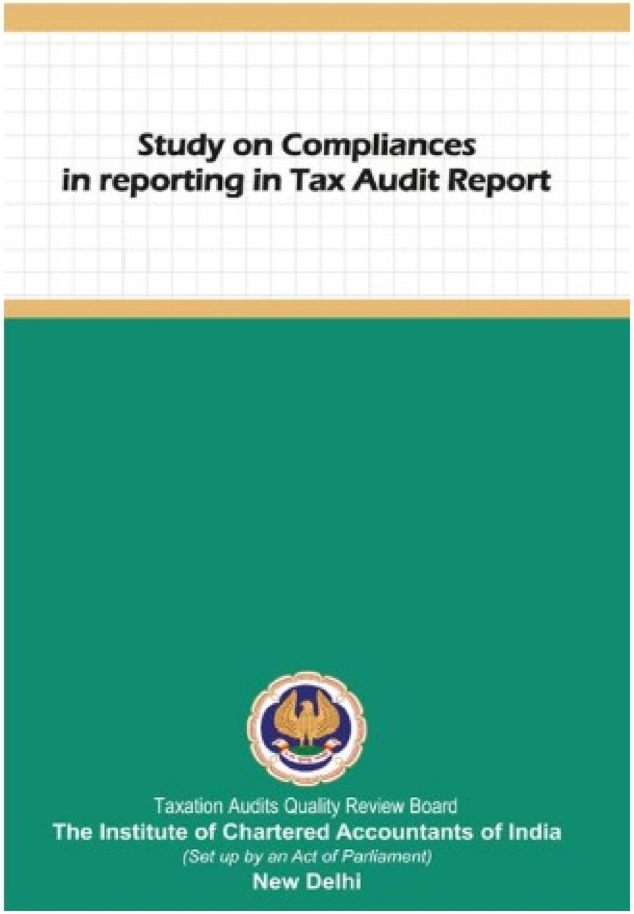
Points to note

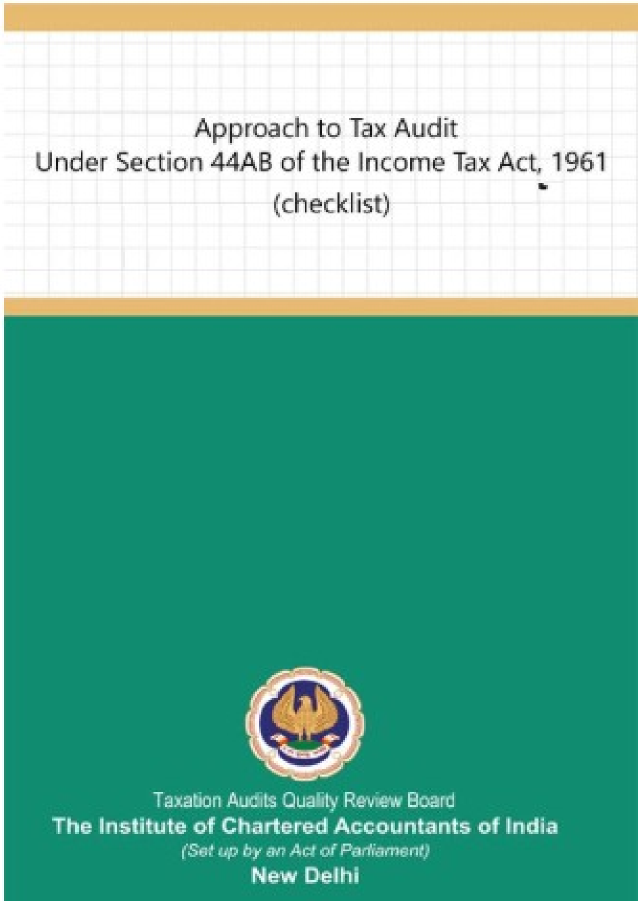
- No communication with the Auditor or Auditee
- Review based on information available

Eligibility of Reviewer amended

Publications







Tax Audit Quality Review Board

Regular review of tax audit reports

Material mistakes observed

- Disciplinary action – punishment
- Disciplinary reference – Advisory
- Observation for improvement

Nature of Review

- Cold review
- No documents ought to be called unless directed by Board

Peer review mandate

Firms carrying out Bank Branch Audit or having 3 or more partners

- Applicable from 01.01.27

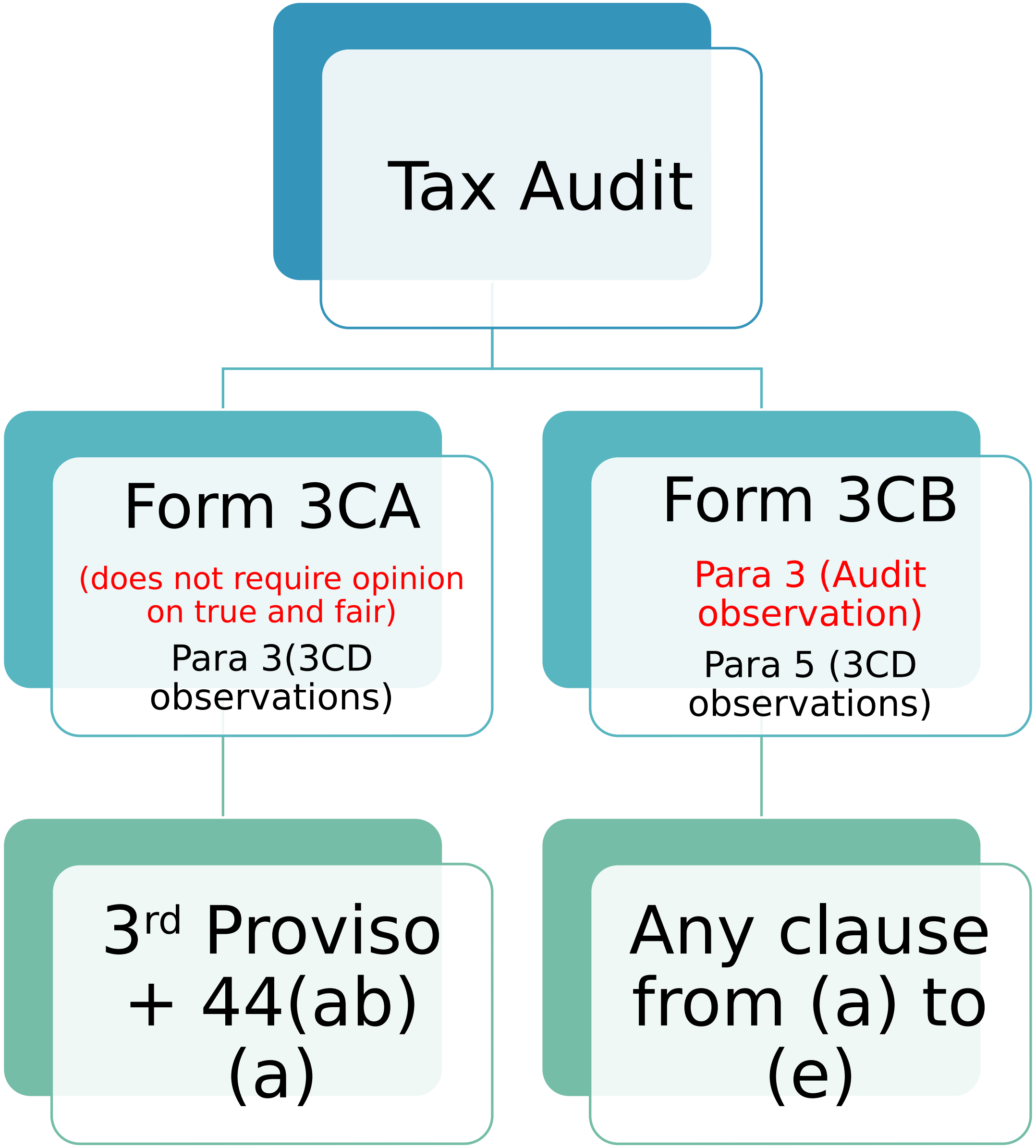
Online portal based peer review

Faceless Peer review?

Documentation

Essential Element	Description
Mandate Letter	Should specify your fees, any specific remarks/instructions from client
Engagement Letter	To contain scope, responsibilities, fees, type of assurance, etc.
Requirement List	Should be shared with client in writing Useful in case we do not receive data and need to disclaim the opinion
Working papers	Should contain details of checks performed and cross reference to evidence obtained Should be unambiguous and conclusive
Review by Senior	Document containing footmarks of review by senior/partner

Form 3CA/3CB


Tax Audit
Form 3CA
(does not require opinion on true and fair)
Para 3(3CD observations)
Form 3CB
Para 3 (Audit observation)
Para 5 (3CD observations)
3rd Proviso + 44(ab)(a)
Any clause from (a) to (e)

Form 3CB – Clause 5

Category of Qualifications
On Books of Accounts
Inventory related
Insufficiency of audit evidences
Not ascertainable

Qualification Type	Observations/Qualifications

Select

Proper books of account, to enable reporting in form 3CD, have not been maintained by the assessee.

All the information and explanations which to the best of my/our knowledge and belief were necessary for the purpose of my/our audit has not been provided by the assessee.

Documents necessary to verify the reportable transaction were not made available.

Proper stock records are not maintained by the assessee.

Valuation of closing stock is not possible.

Yield/percentage of wastage is not ascertainable.

Records necessary to verify personal nature of expenses not maintained by the assessee.

TDS returns could not be verified with the books of account.

Records produced for verification of payments through account payee cheque were not sufficient

Amount of expense related to exempt income u/s 14A of Income-tax Act, 1961 could not be ascertained

Creditors under Micro, Small and Medium Enterprises Development Act, 2006 are not ascertainable

Prior period expenses are not ascertainable from books of account.

Fair market value of shares u/s56 (2) (viia)/(viib) is not ascertainable

Reports of audits carried by Excise/Service tax Department were not made available

GP ratio is not ascertainable from the financial statements prepared by the assessee.

Information regarding demand raised or refund issued during the previous year under any tax laws other than Income-tax Act, 1961 and Wealth tax Act, 1957 was not made available.

Others

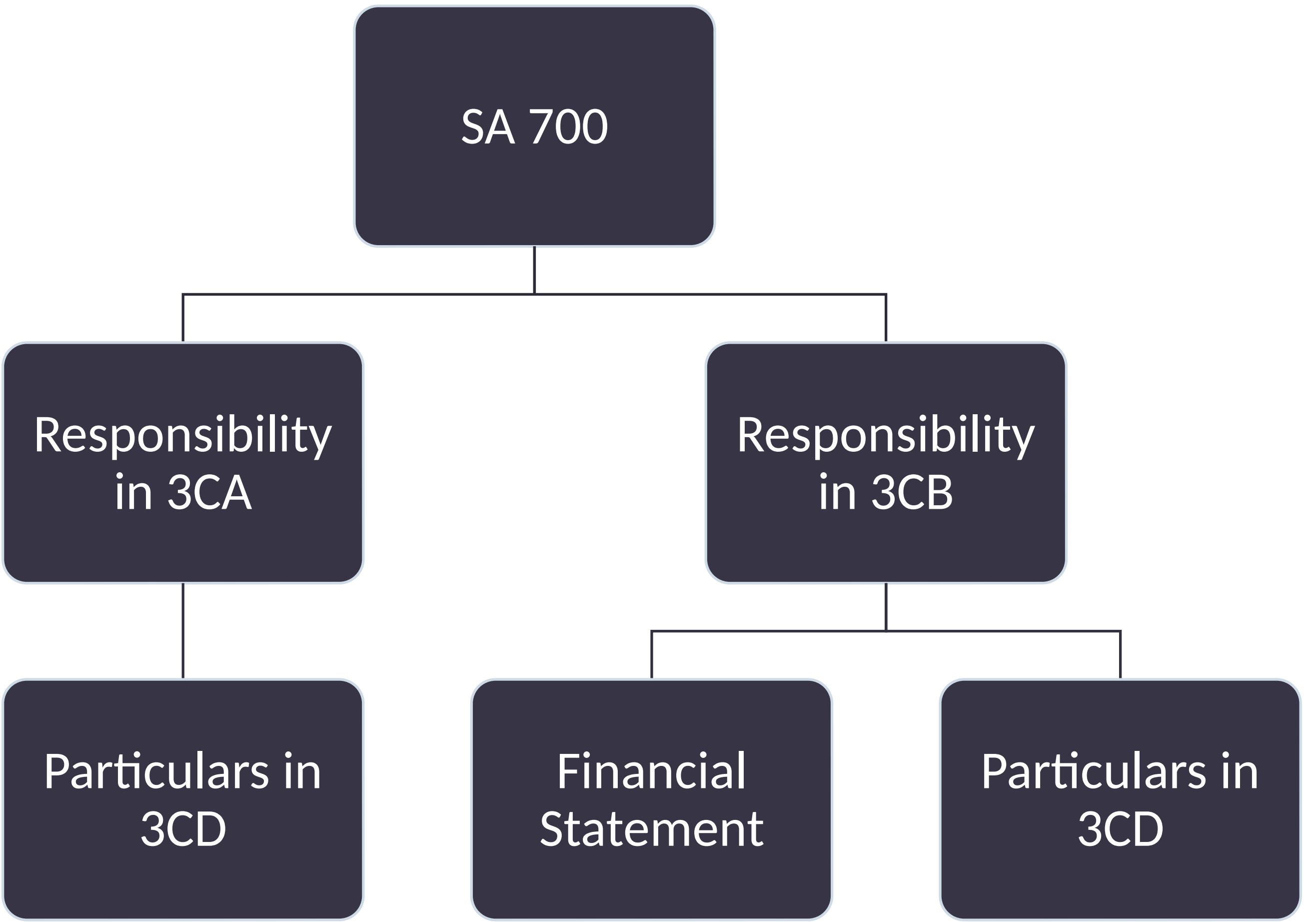
Category	Qualification Type	Observations/ Qualifications
Books of Accounts related	Proper books of account, to enable reporting in form 3CD, have not been maintained by the assessee.	
	All the information and explanations which to the best of my/our knowledge and belief were necessary for the purpose of my/our audit has not been provided by the Assessee.	
	Documents necessary to verify the reportable transaction were not made available.	
Inventory related	Proper stock records are not maintained by the assessee.	
	Valuation of closing stock is not possible.	
	Yield/percentage of wastage is not ascertainable.	

SA 700 'Forming an Opinion and Reporting on Financial Statements

Assessee's Responsibility for the Financial Statements and the Statement of Particulars in Form 3CD

Tax Auditor's Responsibility

Responsibility paragraph



SA 700 – Illustrative- Assessee's Responsibility for the Financial Statements and the Statement of Particulars in Form No. 3CD

- **The assessee is responsible for the preparation of the statement of particulars required to be furnished under section 44AB of the Income-tax Act, 1961 annexed herewith in Form No. 3CD read with Rule 6G(1)(b) of Income Tax Rules, 1962 that give true and correct particulars as per the provisions of the Income-tax Act, 1961 read with Rules, Notifications , circulars etc. that are to be included in the Statement.**

SA 700 – Illustrative- Tax Auditor’s Responsibility

- **We are also responsible for verifying the statement of particulars required to be furnished under section 44AB of the Income-tax Act, 1961 annexed herewith in Form No. 3CD read with Rule 6G (1) (b) of Income-tax Rules, 1962. We have conducted my/our verification of the statement in accordance with Guidance Note on Tax Audit under section 44AB of the Income-tax Act, 1961, issued by the Institute of Chartered Accountants of India.**

SA 700 – Clause (3) of Form No.3CA or Clause (5) of Form No.3CB

<u>As per Para 11.9 of the Guidance Note-</u>

The ICAI had pursuant to the issuance of the Revised SA 700, Forming an Opinion and Reporting on Financial Statements, prescribed a revised format of the auditor's report on financial statement. Since Form No. 3CA and Form No. 3CB are required to be filed online in a preset form and the same are not in line with the requirements of SA 700, there is no specifically allocated field for providing information relating to the respective responsibilities of the assessee and the tax auditor as required in terms of the principles laid out in SA 700.

However, having regard to the importance of these respective responsibility paragraphs from the perspective of the readers of the tax audit report, it is suggested that these respective responsibility paragraphs relating can be provided in the space provided for giving observations, etc., under clause (3) of Form No.3CA or Clause (5) of Form No.3CB as the case may be.

SA 700 – Clause (3) of Form No.3CA or Clause (5) of Form No.3CB

The illustrative Assessee's responsibility paragraph and Tax Auditor's responsibility paragraphs in respect of Form No.3CB has been given in the Guidance Note. The same are to suitably re-worded to meet the situation envisaged in Form No.3CA.

- **In most of the cases, these respective responsibilities of the assessee and the tax auditor are not reported under clause (3) of Form No.3CA or Clause (5) of Form No.3CB as the case may be.**

- **In few Tax Audit Reports, is has been reported to *read along with ma*nually *signed TAR or notes attached with it*. These notes also contained paragraphs complying with the requirement of SA 700. However, as per the Guidance note on Tax Audit under section 44AB of the Income tax Act, the same were specifically required to be mentioned / reported under clause (3) of Form No.3CA or Clause (5) of Form No.3CB as the case may be.**

To start with……

- Engagement letter
- Read Guidance note
- Cross check things – Notes to accounts/CARO
- Comparative analysis
- Check capital account for major credits/exceptional
- Documentation must
- Tax Audit Review

Obtain

- Form 26AS
- Balance Confirmations
- Bank Reconciliations
- Minutes of Board meetings
- Stock Statements submitted to bank
- Tax assessment orders
- Computation of Income and ITR for last 5 yrs
- Annual return filed with ROC

Disclosures

Form 3CA/3CB

- Audit Opinion - Perspective
- Disclaimer/Qualification/Adverse
- Audit approach – test checks, materiality, etc.
- Very important observations/qualification
- To be signed by Auditor Only

Form 3CD

- Reporting of Specific Information
- Clause specific assumptions /stands except complete disclaimer/qualification
- To be first signed by Assessee
- **All partners or Directors**
- **Management Representation**

FS = BS+PL+Notes to accounts

Attachments with audit report

In 3CA cases	• Notes to 3CD
In 3CB cases	• Notes to 3CB – 3CD

Impact of audit qualification in assessment

- Delhi High Court in case of **PCIT vs. Escorts Limited [2018] 98 taxmann.com 291 (Delhi)** has clearly held that **Auditor's opinion though relevant and material would not be final and conclusive even when against the assessee.**
- Auditor's report in a way is a third party and an independent report that can be equated with an expert opinion.
- It may be accepted or rejected or partly accepted and partly rejected. It has to be considered with other material.
- It cannot be treated as final or binding on the Assessing Officer, or for that matter even on the assessee, except when mandated by a statutory provision, which requires an unqualified auditor's report or certification.
- In the absence of statutory provision it would not be right to hold that a reservation or qualifying note in the audit report would be a conclusive and bind finding against the assessee.

Impact of Qualification on assessments

- **Gujarat High Court** in **Rajkot Engg. Association v. Union of India [1986] 162 ITR 28/26 Taxman 60 (Guj.)** had appropriately referred to the affidavit file by the Union of India repelling and quelling misgiving expressed by the assessee on the **binding nature of qualifications or reservations expressed in audit reports** to clarify and observe:—
  - *"53. It was, therefore, submitted that if the auditor finds that the financial information furnished to him is not according to the acceptable accounting policy and principles or not according to the relevant regulations and statutory requirements, he may refuse to give an unqualified opinion in which case an assessee would be exposed to grave consequences of not only a best judgment assessment but also to penalty. We can appreciate this apprehension expressed on behalf of the assessee. However, in view of the clarification made by the Union Government in the reply affidavit of Shri Kalyanchand,* ***Under Secretary in the Finance Ministry to the Government of India in paragraph 15 that opinions given by the chartered accountants are not binding either on the assessees or on the assessing officer, we do not think that the assessee will be prejudiced by the qualified opinion given by the tax auditor in any given case.***

Mistakes in audit reports

Reopening notice merely relying on a technical mistake committed by an auditor was unjustified

- Baroque Pharmaceuticals (P.) Ltd. [2022] 137 taxmann.com 94 (Gujarat)

If assessee contends inadvertent error in Form No. 3CD, he should submit revised tax audit report/addendum issued by the tax auditor.

- ACIT vs. J.P. Yadav [2022] 138 taxmann.com 320 (Allahabad - Trib.)

Rule 6G(3)

- With effect from 1-4-2021, Rule 6G(3) provides that "(3) The report of audit furnished under this rule may be revised by the person by getting revised report of audit from an accountant, duly signed and verified by such accountant, and furnish it before the end of the relevant assessment year for which the report pertains

Penalty – S.271J

AO or CIT(A) notices that

incorrect information is given in

- Report
- Certificate

Rs. 10000 per report/certificate

FORM 3CD

Notes

- The information/ details given in Form No. 3CD are as per the books maintained and details and information compiled and furnished by the assessee;
- We have broadly reviewed the basis of compiling details and information and we have test checked wherever considered necessary the books and/ or the details/ information compiled by the assessee.

Clause 1 - Name of the assessee

As per para 17.1 of the Guidance Note: "Under clause (1) the name of the assessee whose accounts are being audited under section 44AB should be given. However, if the tax audit is in respect of a branch, name of such branch should be mentioned along with the name of the assessee."

If during the year or after the date of Balance sheet, there is any change in the name of company, the present name along with the estwhile name of the company need to be reported under this clause.

Clause 2 : Address

- It has been observed that in certain tax audit reports address mentioned in Form No. 3CA/ 3CB is different from the one mentioned in Annual report or as registered under MCA.
- *As per the Guidance Note, the tax audit report should contain the address 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.*

Clause 3: PAN

Search the PAN reported under this clause with on the GST Portal and verify the same.

Clause 4: Indirect tax registration

- All the registrations under Indirect tax laws have not been reported
- Registration no. is not matching with PAN
  - GST no. of Deceased/ Erstwhile partnership
- **Any GST no. active during year must be reported**
- Professional tax
- IEC Code

Clause 8: Clause under which audited

- Where an audit is being conducted in any other law (for company, cooperative society etc.) then
- **both the options ie.**
  - “Third proviso to section 44AB” **and**
  - “Clause (a) or (b)” have been considered while reporting under this clause.

Clause 8(a)

- Whether assessee has opted to pay income–tax under provisions of section 115BA, 115BAA, 115BAB, 115BAC or 115BAD, If yes, ensure that no deductions under certain sections like 32AD, 33AB, 33ABA etc. have been taken under clause 19 and 33 of Tax Audit Report.

Clause 10a : Nature of business or prof

Information under this clause has to be furnished in respect of each business.

It has been observed that codes for business or profession for all main activities are not being reported.

Nature of Business

- 1. To check whether the nature of business or profession reported is as per corporate information available in the notes to accounts.
- 2. To check, whether principal line of each business is determined and stated under this clause. For the same, sector in which the company operates may be determined from the revenue from operations reported in the Annual Report.
- 3. Where quantitative details of the principal items of goods traded have been reported under Clause 35(a), the nature of business should also be reported as a trading concern under this clause.
- 4. Where quantitative details of the principal items of raw materials, finished products and by-products have been reported under Clause 35(b), the nature of business should also be reported as a manufacturing concern under this clause.

Clause 10(b)

10. (*a*) Nature of business or profession (if more than one business or profession is carried on during the previous year, nature of every business or profession).

(*b*) If there is any change in the nature of business or profession, the particulars of such change.

- Where a new line of activity emerges as a result of business reorganization, reconstruction, or restructuring and the same has been disclosed in the Annual Report, the relevant details should be reported under this clause, and it should not be left blank.

Clause 11a-Whether books of accounts are prescribed under section 44AA, if yes, list of books so prescribed

Under section 44AA NO Books of accounts are prescribed for a company.

Also, the Companies Act, 2013 does not specifically prescribes books of accounts for a Company.

In respect of a business, the tax audit report should report 'NO" under this sub - clause.

Clause 11 (b)

"(b) List of books of account maintained <u>and the address at which the books of accounts are kept."</u>

Survey Action can be done at places where books are kept

'Books of account' defined in S.2(12A)

- Ledgers, Day books, Account books,
- Cash book and Other books

All places to be reported

- Management Representation must

Cross check with Companies Act, etc

Clause 11(b): Cloud server

Backup compulsory under New Income tax Act only for books stored on cloud server

IP address to be given of cloud server in new form 26

Implications of cloud server

- Pet Puja

“Details of any cloud or any other software used for storage of books of accounts, along with location (**internet protocol address and country**) of such storage.”

Cl 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 account are not kept at one location, please furnish the addresses of locations along with the details of books of account maintained at each location.

- location of maintenance of Books of Account has not been specified.
- Books of Accounts are maintained in computer system, is not mentioned **(Audit trail)**
- Discrepancy in respect of reporting of places of Maintenance of records in Tax Audit report visa-vis annual reports

11(c) - List of books of account and nature of relevant documents examined.

- It has been observed that all the relevant documents examined are not mentioned like Invoices, receipts, vouchers, bills, secretarial, confirmation, certificates, internal & external. In many cases the term "etc." is used without the mention of detailed documents examined.
- As per the Guidance Note reference to all such supporting evidences/ relevant documents is also required to be made under this clause

Clause 13

Method of Accounting

- Cash
- Mercantile

No prior approval to change method

Different source – Different method

- J.K. Bankers v. CIT (94 ITR 107)(All)
- Vishwanath Acharya v. ACIT 157 ITD 1032 (Mum)

ICDS disclosures

(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)

(e) if answer to (d) above is in the affirmative, give details of such adjustments:

		Increase in profit (Rs.)	Decrease in profit (Rs.)	Net Effect (Rs.)
ICDS I	Accounting Policies			
ICDS II	Valuation of Inventories			
ICDS III	Construction Contracts			
ICDS IV	Revenue Recognition			
ICDS V	Tangible Fixed Assets			
ICDS VI	Changes in Foreign Exchange Rates			
ICDS VII	Governments Grants			
ICDS VIII	Securities			
ICDS IX	Borrowing Costs			
ICDS X	Provisions, Contingent Liabilities and Contingent Assets			
	Total			

(f) Disclosure as per ICDS :

(i) ICDS I	–	Accounting Policies
(ii) ICDS II	–	Valuation of Inventories
(iii) ICDS III	–	Construction Contracts
(iv) ICDS IV	–	Revenue Recognition
(v) ICDS V	–	Tangible Fixed Assets
(vi) ICDS VII	–	Governments Grants
(vii) ICDS IX	–	Borrowing Costs
(viii) ICDS X	–	Provisions, Contingent Liabilities and Contingent Assets.

ITR 3 and 5. Impact is not considered in computing in utility

Disclosures in TAR Cl.13(f)(i)

- No need to Disclose if Going concern, Consistency and Accrual are followed
- Historical Cost convention
- Use of Estimates
- Accounting Policies
  - Revenue Recognition
  - Inventory valuation policy
  - Provisions
  - Tangible Assets
  - Forex policy if applicable
  - Borrowing Costs, if applicable

ICDS - II

Valuation of Inventories

Clause 14

Method of valuation of closing stock

- At Cost
- Lower of Cost ~~or~~ **and** NRV
- At NRV

Accounting Standard

Cost – CIT v. Carborandum Universal (149 ITR 759)(Mad)

ICDS: Change from cost to Lower of both

- Reasonable cause
- No corresponding change in Opening required here
  - *Melmound Corporation (202 ITR 789)(Bom)*
- **Disclosures (not in clause 13)**

Approach

Inventory is material item of Balance sheet

Inventory list as on year end date

Shortage and Excess list on verification by Client

Obtain Purchase and Sales for April to June

Physical verification (SA)

- Existence and condition of Inventory

Retail method

Other Issues (Revised)

Standard costing method of inventory valuation permitted if standard cost approximates actual cost

Weighted Average and FIFO accepted

- LIFO not acceptable

Retail Method

Retail Method

In respect of retail method of measuring inventory, cost is determined by reducing appropriate percentage of gross margin from the sales value.

ICDS now requires that an average percentage for each retail department under retail method is to be mandatorily used

Disclosures

- **General Disclosure**
- Raw materials, work-in-progress, finished goods, goods for trade and stores, spares, etc. are valued at cost or net realisable value, whichever is lower.
- Goods in transit are valued at cost to date.
- ‘Cost’ comprises all costs of purchase, costs of conversion and other costs incurred in bringing the inventory to the present location and condition.
- The cost formulae used is either ‘first in first out’, or ‘specific identification’, or the ‘average cost’, as applicable.

Specific Disclosure

- Carrying cost of inventory as on Balance Sheet date is as follows:
  - Finished goods………..,
  - Traded goods……………..,
  - Work in progress………………,
  - Raw materials……………

ICDS V- Tangible assets

- In the case of a company, reporting “No” under this clause is not appropriate, as
  - the difference between book depreciation and depreciation as per the Income-tax Act, adjustments relating to ICDS V (Tangible Assets),
- is required to be reported under Clause 13(e).
- Accordingly, “Yes” should be reported under Clause 13(d).

ICDS VII

Government Grants

Amendment

S.2(24)((*xviii*)

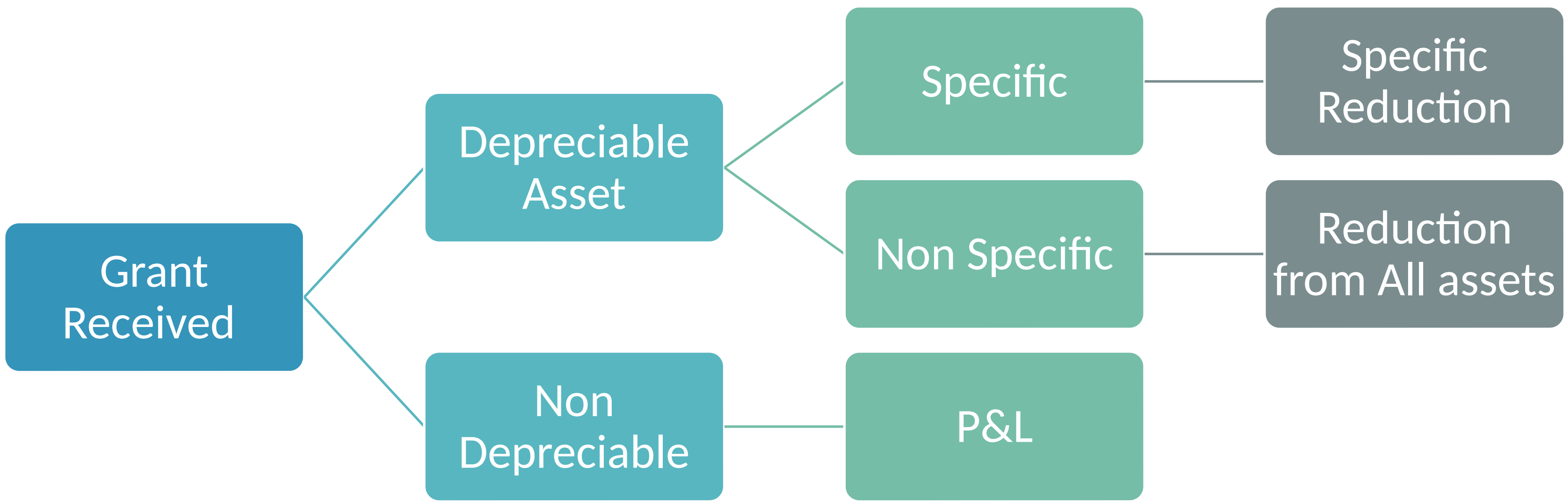
- All subsidies and grant are now taxable

Amendment not part of Finance Bill

Exception

- Carbon credit
- Prepayment of sales tax deferral loan

Government Grants



Government Grants

Recognition cannot be postponed after actual receipt

- Conditional grant
- Receipt is not concluding evidence for accrual of income –Godhra Electricity (SC)

Accrual Override

Clause 13f-Disclosure as per ICDS

- **Reference to the disclosures made in the financial statements is given under these sub-clauses particularly in case of ICDS-I. Disclosure requirement is to report information pertaining to each ICDS notified and not only where any deviation from the notified ICDS is encountered.**

- **As per the disclosure requirement under ICDS, reporting is to be done in respect of all of the notified ICDS except:**
  - **ICDS VI (Changes in Foreign Exchange Rates) and**
  - **ICDS VIII (Securities)**

- **For ICDS V (Tangible Fixed Assets), the prescribed disclosure requirement is similar to the requirements of clause 18 of Form No. 3CD. Accordingly, reference to reporting as done under clause 18 may be given.**

Implications of Reporting

Section 143(1)

- amended by FA 2016 wef AY 2017-18
- **Disallowance indicated in audit report but not taken in computation of total income**
- Views taken disclosures
- S.143(1) intimation appealable

Cl 16 : Items not credited to P&L

Reporting of following items normally

- Interest
- Capital gains
- Other income
- Gifts
- Such items have already been offered in return of income

However such reporting has resulted in automatic additions in S.143(1) intimations

Cl. 16(d)

- Guidance Note
  - *“Under this clause various amounts falling within the scope of section 28 which are not credited to profit or loss are to be stated”*
  - *The information under these clauses is to be given with reference to the entries in the <u>books of accounts</u> and records <u>made available</u> to the tax auditor*

Clause 16(d)

- Any benefit or perquisite received as per Section 28(iv) to be reported
- Check from TDS deducted under Section 194R
- Example
  - Gold silver coins to distributors
  - Foreign trips
  - Other benefits

Cl. 21- Contingent liabilities

Reporting required of contingent liabilities debited to P&L

- Some tax audits reveal reporting of
  - Contingent liability disclosed in Notes to accounts
  - All provisions made in the financials

Such reporting has resulted in automatic disallowances of genuine allowable provisions and those contingent liabilities which have not been claimed in P&L

Clause 17: Cases u/s 50C and 43CA

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

Details of Property	Consideration Received or Accrued	Value Adopted or Assessed or Assessable

Clause 18: Fixed asset schedule

- It has been observed that the details of additions/ deletions reported in Tax Audit Report are not in line with the figures of additions/ deletions disclosed in Audited financial statements.
- Prepare a reconciliation for items like assets purchased in cash on which depreciation is not allowable, etc.
- Assets purchased in Cash – item of reconciliation

Clause 18

- If the rate of depreciation is reported under the Straight Line Method (SLM), an appropriate disclosure in this regard should be made under Para 3CA, since SLM is permitted as an optional method only for undertakings engaged in the generation of power or generation and distribution of power, in terms of Section 32(1)(i) of the Income-tax Act, 1961.
- Further, the nature of the assessee's business should be verified from Clause 10(a) of Form 3CD and the Financial Statements to ascertain whether the assessee is engaged in such eligible activities and to ensure that the adoption of the SLM method of depreciation is justified.

Cl 18: Date of addition

Date of purchase

Date of put to use

- Same in all cases

Clause 18 and 21: Depreciation

- **Considering significant complexities involved** in the computation of profits under the head "Profit and Gains of Business or Profession", as also, Computation of Total Income under the Income-Tax Act, 1961, including Computation of Depreciation Allowable or deductions and allowances admissible or inadmissible as per and under the provisions of Chapter IV and VIA of the Act, the computation of such allowance/ inadmissible **has been reviewed broadly and accordingly, it has been broadly examined whether prima facie, the deductions or allowances claimed are admissible or inadmissible**. Otherwise, we have relied on the computation furnished to us based on satisfaction of the conditions and assumptions as determined/ made by the auditee.

Clause 18: Depreciation on Intangibles

Item	Citation
Skill and Knowhow of Labour	***BOSCH LTD v. CIT*** ***(2009-TIOL-736-ITAT-BANG)***
Brand Name	***Raveendran Pillai*** ***332 ITR 549 (Kerala HC)***
Non Compete	***Medicorp Tech. 21 DTR 69***
Marketing and Commercial Rights	***Skyline Caterers (20 SOT 266)***

Depreciation

- *Car Registered in Partner's name – Reflected in Firm's Balance Sheet – What about Depreciation*
  - *CIT Vs. Aravali Finlease Ltd. 341 ITR 282 (Guj)*
  - *Edwise Consultants P. Ltd. Vs. DCIT 44 ITR 236 /45 CCH 392 (Mum.Trib.)*
- *Depreciation on Individual assets which are not used but forming part of block of asset*
  - *CIT Vs. G. R. Shipping Ltd. – ITA No. 598 of 2009 (Bom HC)*
  - *CIT Vs. Sonic Hiochem Extraction P. Ltd. 94CCH 99 (Bom.)*
- *Depreciation on vehicles for personal use*
  - *Microsoft Corporation India P. Ltd. Vs. Addl CIT 37 ITR 290 (Del. Trib.)*
    - *No Personal use in the case of companies*

New AS 10- Property, plant and equipment

Machinery spares to be capitalised on consumption as per New AS-10

ICDS V requires it to be charged to P&L as per Old AS-10

Deferred tax liability

Clause 19

19. Amounts admissible under sections:

Section	*Amount debited to profit and loss account*	*Amounts admissible as per the provisions of the Income-tax Act, 1961 and also fulfils the conditions, if any specified under the relevant provisions of Income-tax Act, 1961 or Income-tax Rules, 1962 or any other guide-lines, circular, etc., issued in this behalf*
[5b][***]		
[6][***]		
33AB		
33ABA		
35(1)(*i*)		
35(1)(*ii*)		
35(1)(*iia*)		

- Whether assessee has opted to pay income–tax under provisions of section 115BA, 115BAA, 115BAB, 115BAC or 115BAD, If yes, Check and report that no deductions under certain sections like 32AD, 33AB, 33ABA etc. have been taken.

Clause 20(b) Details of Employee's Contribution to Funds

Serial number	Nature of fund	Sum received from employees	Due date for payment	The actual amount paid	The actual date of payment to the concerned authorities

Due Date shall not be extended by any grace period

Only Employee's share to be reported. In many cases the reporting is seen to be combined amount

Incorrect due date should not be maintained.

Refer reporting in Clause 20b of Tax Audit Report –

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

It may be noted that the due date for the Provident Fund is the *'15th of the following month.'*

It may further be noted that at various entries made under this clause, due dates for Provident Fund are reported as the last day of the month e.g., 31/05/2018, 30/06/2018, 31/07/2018 etc.

It was observed that incorrect due dates were reported at various entries. Accordingly, it was opined that appropriate reporting was not done under this clause.

Clause 21(a)

Nature	S.No.	Particulars	Amount in Rs.
Capital, Personal, Advertisement expenditure, etc			
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**			

Capital v. Revenue Expenses

Benefit of enduring nature – Empire Jute (SC)

Expenses incurred on leased/rental premises are revenue in nature –

- Malabar Mills 288 ITR 815
- Modi Spg. & Wvg. Mills v. CIT 200 ITR 544
- Amway India v. DCIT 27 SOT 344 (DELHI)

Supreme Court in CIT V. Ramaraju Mills (294 ITR 328) held that

- if the production capacity remaining constant even after the replacement of the asset it is allowable as a revenue exp.

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Following expenses have been held as revenue

Nature of Expense	Decision
Cost of water proofing of Roof Area	(322 ITR 590)
Renovation expenses including replacement of tiles, painting, false ceiling, portions etc.	(306 ITR 182) (Del.)
Replacement of a part of the machinery	163 Taxman 201 (SC)
Reconstruction of Road	(100 Taxman 247)(Ahd)
Repairs to Boundary Wall	(2010-TIOL-648-HC-DEL-IT)
Internal furnishings, painting and polishing work, dismantling of old false ceiling, fees for interior designing, lift maintenance, etc.	121 ITR 165 (Punj. & Har.). (104 ITD 427) (Del)

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21(a) – capital in nature

- If any loss on sale or impairment of Property, Plant and Equipment has been disclosed in the Statement of Profit and Loss, the same is required to be reported under this clause as an amount debited to the Profit and Loss Account being capital in nature.

- Further, where any expense in the nature of penalty or fine has been debited to the Profit and Loss Account, the same should be reported by the auditor under this clause. Check Notes to accous

- However, interest on TDS/GST and late fees for filing returns, etc., if disclosed in the Statement of Profit and Loss, are not required to be reported under this clause, as these are neither in the nature of penalty nor fine.

Cl. 21(a): Personal expense debited to P&L

- Scrutinise following Expense Accounts :

    1. Membership and Subscription,
    2. Staff Welfare Expenses,
    3. General Expenses,
    4. Gifts and Presentation,
    5. Travelling Expenses,,
    6. Entertainment Expenses, etc

- General Note that “payments made as per contractual obligations not considered for this clause”

- Refer **<u>Auditors Report (CARO)</u>** for any comments on personal expenses

- **If no appeal filed in earlier years for certain disallowances for expenses towards personal motor car expenses, telephone, etc, the same should be mentioned in report.**

- ***Scrutinise Credit card payments***

Clause 21(a) Personal expenses:

- The concern has adequate internal control procedures to ensure that no `personal expenses' are debited to the profit and loss account.
- On a review of the control system and such expenses, as we considered appropriate, no personal expenses have been found debited to the Profit and Loss Account. The payment as per contractual agreement or normally accepted business practices to the employees are not considered for the purpose of this clause.

Clause 21(a): Expenses on fine, penalty, etc

Materiality to be considered while reporting

No view to be expressed on allowability.

Penalty and fine are to be distinguished from contractual obligations - even if such payments are labeled as "penalty" in a contract.

Compensatory vs. penal payments (SC decisions)

- Prakash Cotton Mills 201 ITR 684
- Ahmedabad Cotton Mfg Co Ltd 205 ITR 163
- Malwa Vanaspati & Chemical Co 225 ITR 383

Interest on Late Deposit of TDS

- ***ITO vs. Royal Packaging (ITA No. 1363/Ahd/2010)***,
- ***DCIT vs. Narayani Ispat Pvt. Ltd. in ITA No. 2127/Kol/2014*** decided on 30.08.2017
- ***Sai Food Products Pvt. Ltd vs. DCIT in ITA No. 1887/Kol/2016 decided on 06-04-2018***
- ***DCIT vs. Rungta Mines Ltd. in ITA No. 1531/Kol/2017 decided on 05/10/2018***
- ***DCIT vs. Maa Annapurna Transport Agency Ltd. in ITA No. 822/Kol/2018 decided on 15-01-2020***
- ***STUP Consultants Pvt. Ltd. vs. ACIT in ITA No. 5827/Mum/2012*** dtd 11.12.2018
  - distinguished the interest paid on income-tax/fringe benefits tax with the interest paid on late payment of TDS and held that the amount of tax deduction at source (TDS) represents the amount of income tax of the third parties party on whose behalf the payment was deducted by the assessee & paid to the Government Exchequer.

- ***Against***
  - ***MMR Infra vs. DCIT in ITA No. 1609/Ahd/2018*** decided on **01-06-2020**

Clause 21(a) Penalty or fine:

- The scope of expenditure in this item, it is submitted, is such that it is not capable of being identified and/ or quantified with reasonable accuracy, having regard to the volume of disbursement as also the plethora of laws, rules and regulations in India.
- However we have been informed that no penalties or fines have been levied for violation of any law for the time being in force, nor have any other penalties or fines been paid except for those specified, if any. We have also been informed that no expenditure has been incurred for any purpose which is an offence or which is prohibited by law. On a scrutiny made on a test check basis, we have not come across any expenditure in the nature of penalty or fine debited to the Profit and Loss Account except those specified in the report, if any.

Clause 21(b)(i):TDS Disallowances

Reporting Disallowance for

- Non deduction of TDS
- Non deposit of TDS deducted

Second Proviso to Section 40(a)(ia)

- If the Payee has offered the same to tax
- Certificate of CA in form 26A
- No disallowance
- *Short deduction – Chadubhai and Jassubhoy (ITAT)*

(A) Details of payment on which tax is not deducted:

S.No.	Date of payment	Amount of payment	Nature of payment	Name of the payee	PAN of the Payee, if available	Address Line 1	Address Line 2	City or Town or District	Pincode
1									

Import CSV Fill Data Clear Data CSV Template Help

(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 section200(1)

S.No.	Date of payment	Amount of payment	Nature of payment	Name of the payee	PAN of the Payee, if available	Address Line 1	Address Line 2	City or Town or District	Pincode	Amount of tax deducted
1										

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Clause 21 (b) :

- The assessee has identified, in Attachment ___', the amount as referred to in Section 40(a)(ia) of the Act on which tax is deductible at source under chapter XVII-B of the Act, and such tax has not been deducted or, after deduction has not been paid during the previous year. However, having regard to the volume of payments as also various payments from which the tax is so deductible, we are unable to determine/verify as to whether any such other amounts have been paid or provided on which the tax was deductible but not deducted or after deduction, has not been credited to the Central Government in accordance with the provisions of Chapter XVII-B.

Cl 21(c) – Remuneration to partners

Amount allowable

Amount disallowable

- No reporting is found in case of audit of partnership firms under both allowable and disallowable

Cl 21(d): Cash payments

- Comments as suggested in the Guidance Note are required to be reported under para 3 of Form No. 3CA/CB-
  - “It is not possible for me/us to verify whether the receipts/payments have been accepted/made otherwise than by an account payee cheque or an account payee bank draft, as necessary evidence is not in the position of the assessee”.

Clause 21(d): 40A(3)

New Limit Rs.10000

Disallowance/deemed income under section 40A(3)

Electricity Payment to MPEB Companies

- Padigela Rajeshwar Ginning Industries ITA 1137/Hyd/2011,
- Trivedi Corporation (ITA 2844/Ahd/2006)
- M.R. Soap (P.) Ltd. 32 TTJ 505 (DELHI)

S.No.	Date of payment	Nature of payment	Amount	Name and Permanent Account Number of the payee, if available

3CD Notes – Cash payments

- With regard to Clause 21(d) it is informed to us that the Company follows a policy for making all payments for expenses in excess of Rs. 10,000/- through only account payee cheque or account payee bank drafts or by direct credit to accounts. On a scrutiny made on a test check basis no payment in excess of Rs. 10,000/- made otherwise than by a account payee cheque or account payee bank draft has been noticed except the payment of Rs 2,50,000 made towards Electricity bill paid to Madhya Pradesh Paschim Kshetra Vidyut Vitaran Company Limited (a government company) which has not been considered disallowable under Section 40A(3) by the Company based on following judicial pronouncements:
  - Padigela Rajeshwar Ginning Industries (ITA 1137/Hyd/2011)
  - Trivedi Corporation (ITA 2844/Ahd/2006)
  - M.R. Soap (P.) Ltd. 32 TTJ 505 (Del)

AC PAYEE

DATE 21-07-03

PAY Atul Wasan

OR BEARER

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Rs. 10, 000/-

S.A. A/c No. 004901006949

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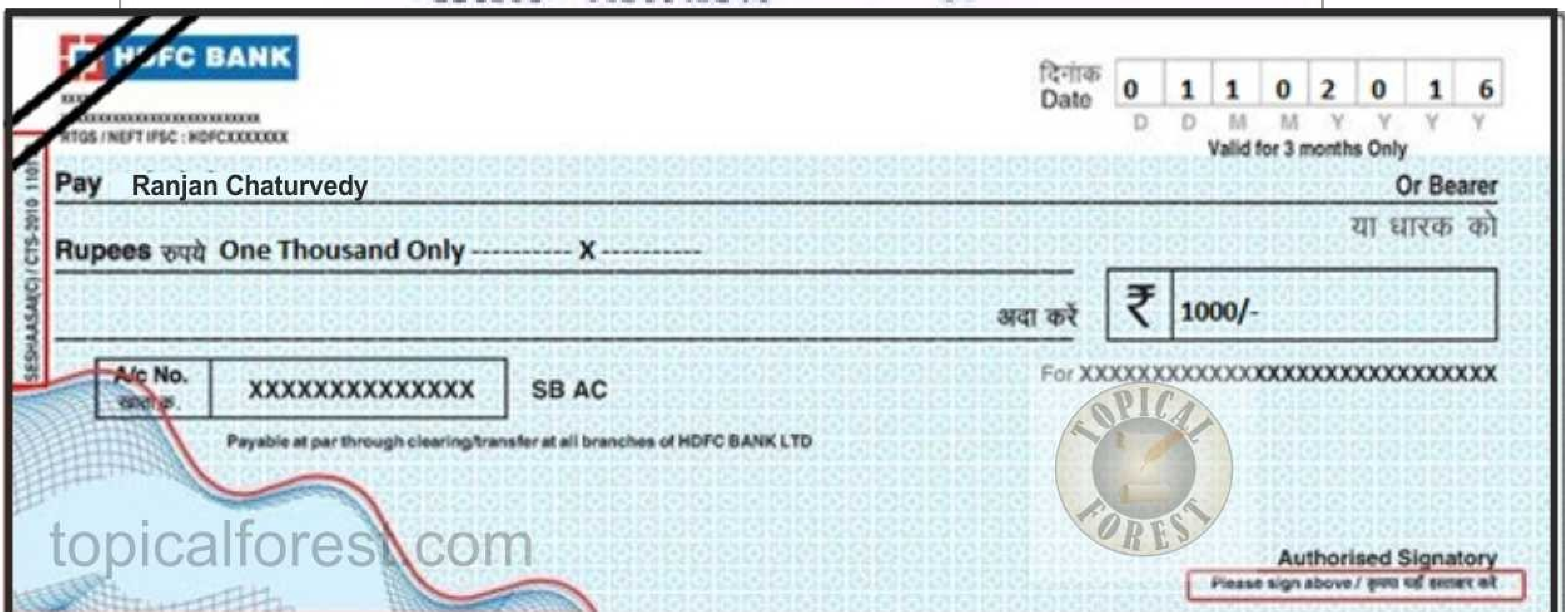

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A/c No. खाता सं. XXXXXXXXXXXXX SB AC

For XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Payable at par through clearing/transfer at all branches of HDFC BANK LTD

Authorised Signatory

Please sign above / कृपया यहाँ हस्ताक्षर करें

CROSSED CHEQUE vs. A/C PAYEE CHEQUE

- There is clear distinction between a crossed cheque and an account payee cheque as in account payee cheque banks are directed to credit amount of an account payee cheque only in account of payee and no other person while crossed cheques are endorsed in favour of a person other than drawee making it difficult to trace constituent of money and **thus, crossed cheque is violative of section 40A(3) -** *Rajmoti Industries* v. *Asstt. CIT* [2014] 45 taxmann.com 72/223 Taxman 428 (Guj.)

Cl 21(i) – Disallowance u/s 36(1)(iii)

Borrowed as well as Own funds

Interest paid on borrowed funds

Interest free Loan given to sister Concerns

Whether disallowance is warranted u/s 36(1)(iii)

- Reliance Utilities (Bom)
- S.A. Builders 288 ITR 1 (SC)

Clause 22: MSME related

22.

(i) Amount of **interest inadmissible** under section 23 of the Micro, Small and Medium Enterprises Development Act, 2006 (MSMED Act); or

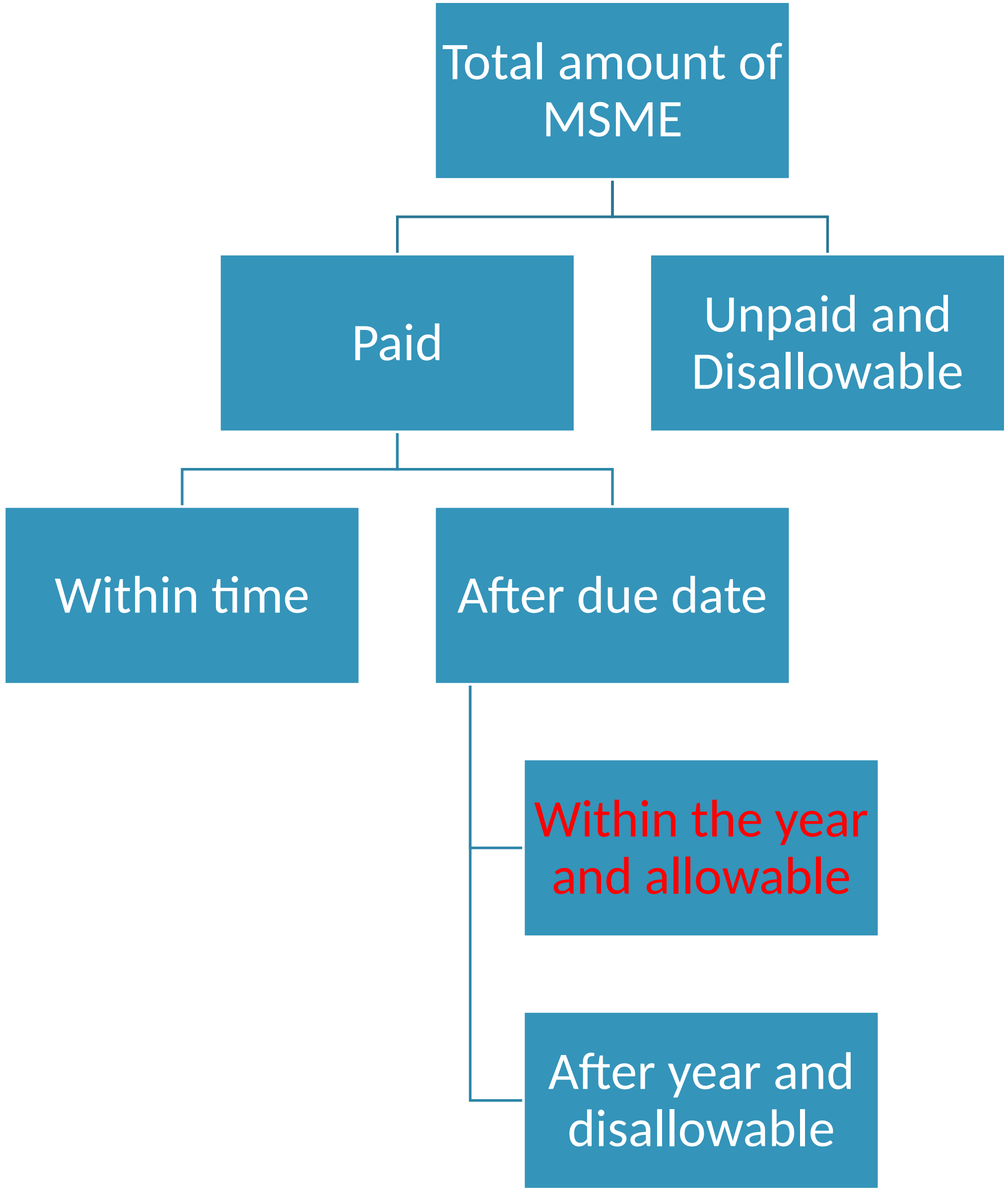
(ii) Total amount required to be paid to a micro or small enterprise, as referred to in section 15 of the MSMED Act, during the previous year; (***total including claimed or unclaimed, paid or unpaid)***

(iii) Of amount referred to in (ii) above, amount –

(a) paid up to time given under section 15 of the MSMED Act;

(b) not paid up to time given under section 15 of the MSMED Act and **inadmissible** for the previous year.

No requirement to report delayed payment but allowable since paid during the year



Total amount of MSME
Paid
Unpaid and Disallowable
Within time
After due date
Within the year and allowable
After year and disallowable

Reporting for Clause 22

- Para 42.21:
- A question may come up as to what the disallowance would be in a case where the **auditee is liable to pay interest under MSMED Act, but has not provided** for the same in his books.
- Where the tax auditor, upon due verification, finds that the auditee has neither provided for nor paid any interest payable under the MSMED Act, then **no amount is inadmissible** in terms of section 23 of MSMED Act and the amount to be **reported** under Clause 22 would be **NIL.**

Reporting for Clause 22

- 42.22 However, where the auditee has adopted mercantile system of accounting, **non-provision of interest liability may affect the true and fair view** of financial statements, and the **tax auditor should give suitable qualification/observation** in Form 3CB.

Suggestive Note:

- *“Based on the information and records produced before us and the written representation obtained from the management, we report that no delayed payment under section 43B(h) of the Income-tax Act, 1961, or interest payable/paid under section 23 of the Micro, Small and Medium Enterprises Development Act, 2006, has been debited to the profit and loss account, other than the amounts, if any, disclosed in this clause. It has also been informed to us that no claims in respect of interest have been received from vendors and in view of management there is no impact on financial statements. As there is presently no statutory facility to independently verify the MSME registration status of each payee, our reporting is limited to the information and documents made available by the assessee. On a test-check basis, we have verified invoices and documents where MSME/Udyam registration details were stated, in terms of OM No.2(18)/2007-MSME(Pol) dated 26.08.2008 issued by the MSME Department.”*

Clause 22: MSME Interest and 43B(h)

- Seek list of suppliers with MSME registration under
  - Manufacturer
  - Service Provider
- Verify supplier’s invoices if MSME reg. no. is printed
- Take list of outstanding creditors on 31.03.25
  - Check Bank reconciliation statement
  - MSME reg. as ~~Traders~~, Manuf. and Service Provider
    - Over Due on 31.03.25
    - Payment not due as on 31.03.25
      - Check due date
  - If any objections, take documentation
  - Keep sample invoice of all outstanding creditors

Advisory to MSME

- OM No.2(28)/2007-MSME(Pol) dated 26.08.2008
  - *It is advisable that the Micro or small enterprises should mention/ get printed on their letter heads, supply order sheets, invoices, bills, relevant documents, the Entrepreneurs Memorandum number….., so that there always remain an identification of being an MSE supplier"*

Actual payment

Date of tender is relevant

Not date of actual clearing of amount

Actual payment

- CIT v. Ogale Glass Works Ltd. [1954] 25 ITR 529 (SC)
  - when a cheque is not dishonoured but encashed, the payment relates back to the date of tendering of cheque. The date of payment would be the date of delivery of the cheque
- CIT v. Punalur Paper Mills Ltd.[2019] 111 taxmann.com 50 (Kerala)

Section 22 of MSME Act (Disclosures)

- (i) The **principal amount and interest due** thereon (to be shown separately) remaining **unpaid** to any supplier **<u>as at the end of each accounting year</u>**;
- (ii) The amount of **interest paid by the buyer in terms of Section 16**, along with the **<u>amount of payment made to supplier beyond the appointed date during each accounting year</u>**;
- (iii) The amount of **interest due and payable for the delay in making payment** (which have been **paid** but beyond the appointed day during the year) but **without adding the interest specified** under this Act;
- (iv) The amount of **<u>interest accrued and remaining unpaid</u>** at the end of each accounting year; and
- (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.

Guidance Note on Section 22 of MSME

- Para 42.16: ….. If no disclosure is made by the auditee in the financial statements, he should give an appropriate observation in Form No. 3CB, **in addition to verifying compliance with the reporting requirement in clause 22** of Form No. 3CD.

Clause 26 - S.43B(h)

Opening balance of unpaid MSME dues

- Paid during the year

To be reported and claimed

Clause 23 : Related party

- Ensure that the transactions reported under Clause 23 are in line with the related party transactions disclosures made in the Annual Report. For Example–
  - Where remuneration or sitting fees paid to directors have been debited to the Profit & Loss Account but have not been reported under this clause, the same should be reported under this clause.
  - The Annual Report discloses a related party transaction relating to a loan taken from a foreign associated enterprise. Further, the interest expenditure has been reported under Clause 30B of the Tax Audit Report. However, no amount has been reported under this clause in respect of interest expenditure paid to the associated enterprise.

Clause 23: 40A(2)(b)

- Name and PAN of related persons not reported.
- Obtain signed declaration of 40A(2)(b) relatives and their interested entities.
- Be vigilant
- Interest @ 18%
  - Pr CIT v Cama Hotels Ltd - [2016] 68 taxmann.com 153 (Gujarat)
  - Balkishan Jagannath Goyal (Indore ITAT

Who is not a relative as per 40A(2)(b)?

- Sister
- Maternal Grandmother
- Married Daughter
- Daughter in law

Clause 25, 34 and others

- “Various parties” should not be reported under the column “Name of Person”.
- The disclosure should be made specifically on a party-wise basis.

Clause 26: any tax duty cess….. 43B

TDS is not required to be reported

Cl.26: Section 43B where Statutory Liability is not claimed as Expense

- Section 43B is normally understood to disallow specified statutory liabilities if they remain unpaid beyond prescribed date. However an interesting question arises where such collection has never been routed through Profit & Loss Account and no deduction has actually been claimed by Assessee.
- **Ganapati Motors [TS-254-HC-2017(CG)]**
  - Chhattisgarh High Court deleted addition of unpaid VAT where VAT collected had not been charged to Profit & Loss account and was separately accounted for in books.

Clause 42: SFT reporting

[27][**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:

Income-tax Department Reporting Entity Identification Number	*Type of Form*	*Due date for furnishing*	*Date of furnishing, if furnished*	*Whether the Form contains information about all details/transactions which are required to be reported. If not, please furnish list of the details/transactions which are not reported.*

Clause 42: SFT reporting

- Under this clause, reporting is required if any of the following condition (s) is satisfied -
- 1. To check from notes to accounts under the head 'Share capital', whether the company has issued shares during the financial year and any receipt from any person of an amount aggregates to ten lakh rupees or more in a financial year (including share application money).
- 2. To check from notes to accounts under the head 'Non-current liabilities', whether the company has issued bonds or debentures during the financial year and any receipt from any person of an amount aggregates to ten lakh rupees or more in a financial year (other than the amount received on account of renewal of the bond or debenture issued by that company).
- 3. To check from notes to accounts under the head 'Share capital', whether the company (listed on a recognised stock exchange) has purchased its own securities during the financial year from any person and the amount aggregates to ten lakh rupees or more in a financial year.
- 4. Where any amount of dividend has been paid by the company, the provisions of SFT become applicable and the relevant details are required to be reported under this clause. The declaration of dividend can be verified from the appropriation of profit.

Buyback details required

"36B. (*a*)	Whether the assessee has received any amount for buyback of shares as referred to in sub-clause (*f*) of clause (22) of section 2? (Yes/No)
(*b*)	If yes, please furnish the following details:
(*i*)	Amount received (in Rs.)
(*ii*)	Cost of acquisition of shares bought back".

Clause 27a-Amount of Central Value Added Tax Credits/ Input Tax Credit(ITC) availed of or utilised during the previous year and its treatment in profit and loss account and treatment of outstanding Central Value Added Tax Credits/Input Tax Credit (ITC) in accounts

This clause requires reporting of amount of Central Value Added Tax credits availed of or utilised during the previous year and its treatment in the profit and loss account and treatment of outstanding Central Value Added Tax credits in the account.

In few Tax Audit reports GST is reported

Clause 27: CENVAT

- Central excise duty is leviable only on six products viz.
  - petroleum crude,
  - diesel,
  - petrol,
  - aviation turbine fuel,
  - natural gas and
  - tobacco.
- Hence, reporting under this clause is restricted for only those assessees who deal in these products and not for the Input Tax Credit (ITC) under the Goods and Service Tax Act.

Clause 31: loans, advances specified sum

- 1. In order to verify the details of loan accepted/repaid during the year, the Financial Statements should be examined to determine whether the closing balance of Unsecured Loans from Other than Banks has increased/decreased as compared to the previous financial year. The same may be further verified from the Cash Flow Statement under financing activity where repayment of borrowings during the year are disclosed.
- 2. Sometimes, companies disclose the details of loans taken and repaid as part of Related Party Transactions in the notes to the financial statements. Such disclosures may also be referred to verifying the transactions relating to loans taken and repaid during the year.
- 3. If the same party is reported under clause 31(a) as well as under Clause 31(c), the maximum amount outstanding during the previous year should be the same in both clauses.
- 4. The disclosure should be made specifically on a party-wise basis. Reporting as "Various parties" and a "consolidated amounts" should not be reported under this 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 :-

Sl. No.	Name of the lender or depositor	Address of the lender or depositor	Permanent Account Number (if available with the assessee) of the lender or depositor	Aadhaar Number of the lender or depositor, if available	Amount of loan or deposit taken or accepted	Whether the loan/deposit was squared up during the previous year ?	Maximum amount outstanding in the account at any time during the previous year	Whether the loan or deposit was taken or accepted by cheque or bank draft or use of electronic clearing system through a bank account ?	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.
1	[illegible]	[illegible]	[illegible]		₹65,00,000	No	₹98,44,807	Yes-Cheque	Account payee cheque
2	[illegible]	[illegible]	[illegible]		₹3,81,44,131	No	₹3,03,51,676	Yes-Cheque	Account payee cheque
3	[illegible]	[illegible]			₹25,00,000	Yes	₹0	Yes-Cheque	Account payee cheque
4	[illegible]	[illegible]			₹23,00,000	Yes	₹0	Yes-Cheque	Account payee cheque

(ba) Particulars of each receipt in an amount exceeding the limit specified in section 269ST, in aggreate 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 othewise 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 Rs.);

(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 transations relating to one event or occasions 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 Rs.);

(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 transations relating to one event or occasions 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 Rs.);

(iv) Date of payment;

(bd) 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 transations relating to one event or occasions 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 Rs.);

(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 cse of persons referred to in Notification No. S.O. 2065(E) dated 3rd July, 2017)

Clause 31

(a) deals with **loans or deposit** 269SS

(b) deals with **specified sum (Builder's case)**

- *specified sum is money receivable as advance or otherwise in relation to transfer of an immovable property, whether or not transfer has taken place*
- What in case of real estate business?

(c) repayment of **Loan, deposit or specified sum**

- Whether **repayment through cheque, bank draft**, ecs
- If yes whether the same was even **received** through account payee cheque or bank draft?

Clause 31

Sl. No.	*Nature of amount or receipt or repayment*	*Code*
(1)	*(2)*	*(3)*
1.	Cash payment	A
2.	Cash receipt	B
3.	Payment through non account payee cheque	C
4.	Receipt through non account payee cheque	D
5.	Transfer of asset	E
6.	Transfer of liability	F
7.	Conversion of assets	G
8.	Conversion of liabilities	H
9.	Journal entry [Debit]	I
10.	Journal entry [Credit]	J
11.	Any other mode [Debit]	K
12.	Any other mode [Credit]	L";

Issues on Clause no. 31 Contd….

Accepting/ Repaying Loans/ Advances via Journal Entries:

- The provisions of Section 269SS of the Act does not get attracted merely for transfer of amount to a loan account in the form of book entry. ***CIT Vs. Worldwide Township Projects Ltd., [2014] 367 ITR 433 (Delhi)***

- ***Contrary view has been taken by High Court of Bombay in CIT vs Triumph International Finance (I) Ltd. [2012] 345 ITR 270 (Bombay)*** wherein held that repayment of loan/deposit by merely debiting account through journal entries contravenes provisions of Section 269T.

- Further, held by ***ITAT- Bombay in Lodha Builders Pvt Ltd vs. ACIT, [2014] 34 ITR(T) 157***, that penalty cannot be levied u/s 271D and 271E if the transactions are bona fide & genuine even where accepting/ repaying loans/ advances via journal entries contravenes s. 269SS & 269T.

Issues on Clause no. 31

Contd….

- Where the transaction is by an A/c Payee Cheque and no payment was made in Cash. Provisions of Sec 269SS shall not be attracted. ***CIT Vs Noida Toll Bridge Co. Ltd 262 ITR 260 (Del)***

- If the cheque or bank draft through which loan is received is 'crossed' but words 'account payee' is not written in the crossing but the transaction is otherwise genuine and the bank confirms that these amounts have been deposited in assessee's account and are as per the banking norms and there was no flaw in the transaction, penalty under Section 271D is not imposable for such a trivial violation. ***CIT v. Makhija Construction Co. [2002] 123 Taxman 1003 (MP)***

269ST

Ban over Rs.3 Lakhs was recommended by SIT

No person shall receive 2L or more in

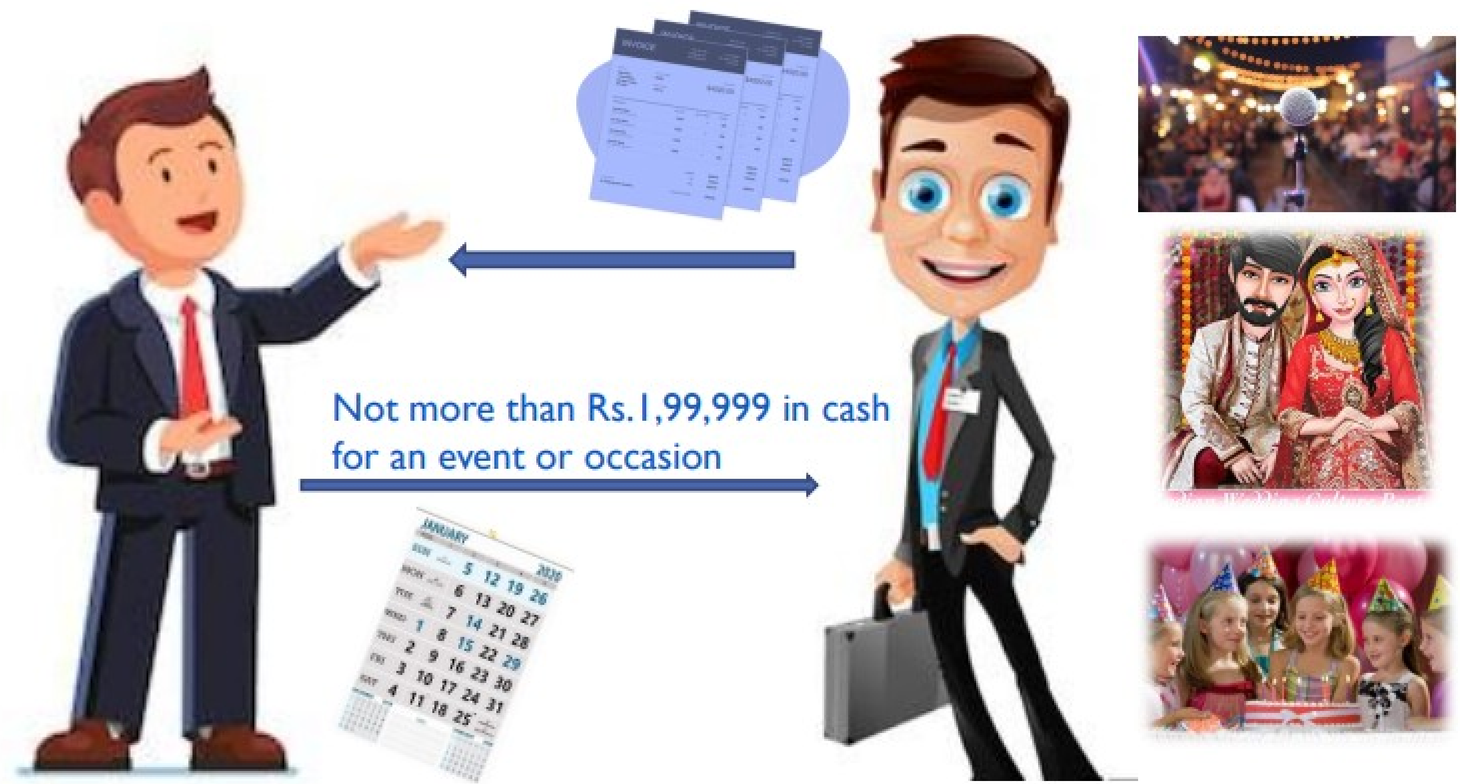
- aggregate from a person in a day or
- respect of a single transaction or
- In respect of transactions relating to one event or occasion from a person

Single day

Single Bill -


Invoice
Your Company Name
$00000.00
Not more than Rs.1,99,999 in cash
against one bill in many days
JANUARY
2020

Single Event occasion



Cl. 32b: Change in Shareholding

- In order to verify the details of changes in shareholding pattern should be examined from the notes to accounts under shareholders details.
  - Please also refer Para 61 of the Guidance Note on Tax Audit under Section 44AB of the Income-tax Act, 1961 (Revised 2025)

Cl 34a : 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

- It has been observed that the total of expenses as mentioned under the clause under Tax Audit Report under specific heads like salary, rent etc. were not matching with the relevant figures in financial statements

Form 3CD - Clause No. 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)	**(1)**
Section	(2)
Nature of payment	(3)
Total amount of payment or receipt of the nature specified in column (3)	(4)
Total amount on which tax was required to be deducted or collected out of (4)	(5)
Total amount on which tax was deducted or collected at specified rate out of (5)	(6)
Amount of tax deducted or collected out of (6)	(7)
Total amount on which tax deducted or collected at less than specified rate out of 5	(8)
Amount of tax deducted or collected on (8)	(9)
Amount of tax deducted or collected not deposited to the credit of the Central Government out of **(7) and (9)**	(10)

Clause 34(a):

- Considering significant complexities involved in determining whether a payment / transaction requires deduction of tax under the provisions of Chapter XVII-B of the Act, the compliance with requirements are prima facie examined based on:
- i. procedure followed for ensuring the compliance;
- ii. broad review of such procedure;
- iii. test checks of the transactions and facts thereon; and
- iv. legal view, if any, taken by the assessee
-
- Otherwise, we have relied on the representations made by the assessee about the compliance or non-compliance, if any, based on its understanding about applicability or non-applicability of the provisions and assumptions made or view taken on it.

Clause 35(a)

35. (*a*) In the case of a trading concern, give quantitative details of 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

Clause 35(a)

- 1. To check from corporate information given in the notes to accounts in the financial statements, whether the business activity of the Company is 'Trading'.
- 2. To verify, whether 'Trading' activity has been reported under clause 10(a). If it is trading, the quantitative details of the same need to be reported under this clause.
- 3. To verify from the notes to accounts in the financial statements, whether inventory of traded goods and sale proceeds/purchases of traded goods are available and sale proceeds from traded goods constitute more than 10% of total turnover of the company.
- 4. Also, refer segment reporting to verify the principal business activity of the company.

Cl 35b In the case of a manufacturing concern, give quantitative details of the principal items of raw materials, finished products and byproducts :

- It has been observed that in certain cases neither percentage of yield has been reported nor any qualification has been given in the Tax Auditor report
- To confirm yield and percentage of yield from the Excise report, if available.
- If no shortage / excess of the raw materials have been reported under this clause, the percentage of yield reported should be 100%

Clause 36A : deemed dividend

- 1. Where a closely held company provides any loan or advance to a significant shareholder or makes any payment for the individual benefit of such shareholder, out of its accumulated profits, the same is treated as dividend for income-tax purposes under Section 2(22)(e).
- 2. The shareholding pattern and relationship with the parent entity may be verified by referring to the Related Party Transactions disclosure in the Notes to the Financial Statements.
- 3. Details of borrowings obtained during the year may be verified with reference to the Notes to Accounts forming part of the Financial Statements.

Clause 38

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.

- 1. To check, whether the company is engaged primarily in petroleum products (petrol, diesel, aviation turbine fuel, natural gas) or alcoholic liquor for human consumption.
- 2. Check from Annual Report of the company, whether any excise audit has been conducted.
- 3. Whether excise audit report is available for review and attach with the Tax Audit Report, and the time period of which falls within the relevant previous year.
- 4. Whether the tax auditor has taken note of the details of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the auditor, and accordingly, reported under this clause.
- 5. If the company is not enaged in excisable goods, under this clause 'Not Applicable' need to be reported.

Clause 40: Ratio

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

Serial number	*Particulars*	*Previous year*	*Preceding previous year*
1.	Total turnover of the assessee		
2.	Gross profit/turnover		
3.	Net profit/turnover		
4.	Stock-in-trade/turnover		
5.	Material consumed/finished goods produced		

- To check the nature of business of the company.
- **If company is engaged in service sector - only ratio no. (1) and (3) need to be reported.**
- **For trading concern - all ratios except ratio no. (5)**
- **For manufacturing concern - all ratios need to be reported.**

Clause 40: Ratio

- 3. To check the figures reported under this clause from the Profit and Loss statement-
  - a) Gross Profit - The excess of the proceeds of goods sold and services rendered during a period over their cost, before taking into account administration, selling, distribution and financing expenses.
  - b) Turnover - Refer Para 5 of Guidance Note on Tax Audit (Revised 2025) for the term turnover, specfic inclusions and exclusions (Para 5.13 and 5.14).
  - c) Net Profit - Profit to be shown here is net profit before tax.
- 4. To check from Balance sheet and notes to accounts-
  - a) Stock-in-trade - only closing stock of finished goods is to be considered.
  - b) Material consumed - apart from raw material consumed, include stores, spare parts and loose tools.

Clause 40: Ratio

- 5. In the case of a company engaged in both trading and manufacturing activities, stock-in-trade should include the total of finished goods and traded goods.
- 6. All figures and numerical values must be reported in their exact (absolute) form. Any data submitted must show the actual figures without any approximation.
- 7. If UDIN for the Tax Audit Report is available, cross- verify the turnover and net profit/turnover ratio reported under this clause alongwith the details provided while obtaining the UDIN.

Ratios

- Turnover ?
- GP Ratio
- NP Ratio

Ratio

For Net Profit ratio

- Net profit before tax is to be considered

For turnover

- Scrap and by product sale to be included in turnover

Clause 41:

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 alongwith details of relevant proceedings.

- In case of corporate assessee, the auditor should check the details of demand issued with the disclosures of contingent liabilities in the audited financials, and disclosures in statutory auditor’s report pursuant to CARO, if applicable.

Clause 44: GST related

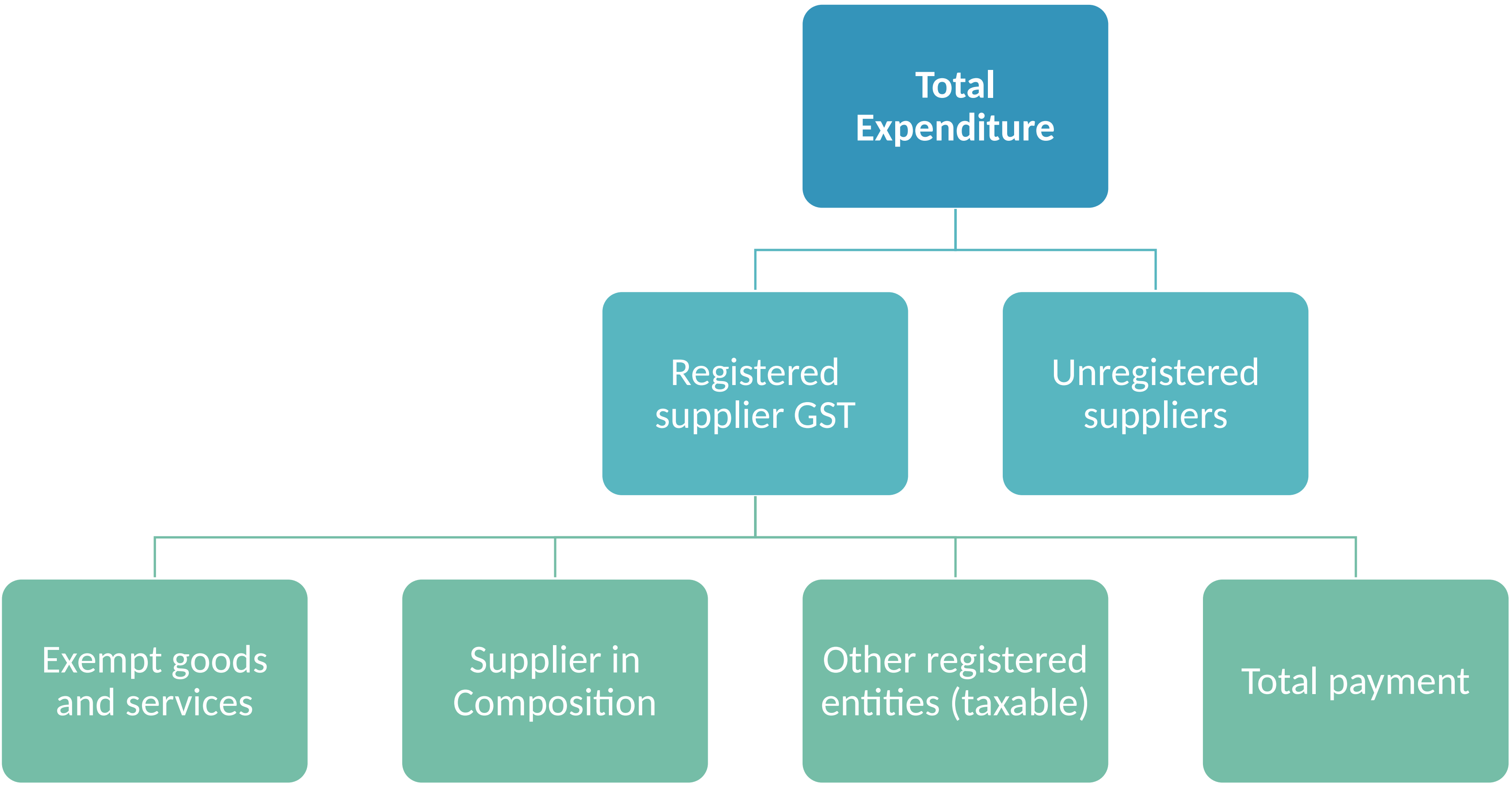
Data analytics

Matching the data available with the various tax wings of the Finance Ministry.

tracking and punishing tax evaders

Software / Manual working required

Sl. No.	Total amount of Expenditure incurred during the year	Expenditure in respect of entities registered under GST				Expenditure relating to entities not registered under GST
		Relating to goods or services exempt from GST	Relating to entities falling under composition scheme	Relating to other registered entities	Total payment to registered entities	
(1)	(2)	(3)	(4)	(5)	(6)	(7)"


Total Expenditure
Registered supplier GST
Unregistered suppliers
Exempt goods and services
Supplier in Composition
Other registered entities (taxable)
Total payment

Head-wise / nature wise expenditure details not required to be reported

Sl. No.	Total amount of Expenditure incurred during the year	Expenditure in respect of entities registered under GST				Expenditure relating to entities not registered under GST
		Relating to goods or services exempt from GST	Relating to entities falling under composition scheme	Relating to other registered entities	Total payment to registered entities	
(1)	(2)	(3)	(4)	(5)	(6)	(7)"

- Revenue expenditure
- **Capital expenditure (Para 82.11 of Exposure Draft)**

Total Expenditure incurred during the year

Total expenditure as per P&L

Capital expenditure?

Depreciation?

"Expenditure" "incurred"

Multiple registrations

Sl. No.	Total amount of Expenditure incurred during the year	Expenditure in respect of entities registered under GST				Expenditure relating to entities not registered under GST
		Relating to goods or services exempt from GST	Relating to entities falling under composition scheme	Relating to other registered entities	Total payment to registered entities	
(1)	(2)	(3)	(4)	(5)	(6)	(7)"
1.	100	10	10	10	30	70
2.	200	20	20	20	60	140

Reporting of Registered supplier

- Supply from same person can be exempt and taxable
  - Reporting nature wise and not person wise
    - Eg Purchases from Ramlal and Sons (Regd entity)
      - Petrol 500 non GST
      - Lubricant 100 taxable
      - Grains 200 Nil rates
      - Milk 30 Exempt

2(78) of CGST exempt supply also includes non taxable supply

2(47) – Nil rates included in exempt supply

Expenditure in respect of entities registered under GST			
Relating to goods or services exempt from GST	Relating to entities falling under composition scheme	Relating to other registered entities	Total payment to registered entities
(3)	(4)	(5)	(6)
730		100	830

Paid or payable

Para 82.9 of Exposure Draft on GN

Expenditure in respect of entities registered under GST			
Relating to goods or services exempt from GST	Relating to entities falling under composition scheme	Relating to other registered entities	Total payment to registered entities
(3)	(4)	(5)	(6)

Schedule III supplies

- Reporting of transaction referred in Schedule III of CGST
  - Neither supply of goods or services
  - Salary, sale of land, etc

Sl. No.	Total amount of Expenditure incurred during the year	Expenditure in respect of entities registered under GST				Expenditure relating to entities not registered under GST
		Relating to goods or services exempt from GST	Relating to entities falling under composition scheme	Relating to other registered entities	Total payment to registered entities	
(1)	(2)	(3)	(4)	(5)	(6)	(7)"

Important points

Reporting to be given irrespective of Auditee being Registered or unregistered

Expenditure vs. Loss vs. Allowance

Expenditure

Sl. No.	Total amount of Expenditure incurred during the year	Expenditure in respect of entities registered under GST				Expenditure relating to entities not registered under GST
		Relating to goods or services exempt from GST	Relating to entities falling under composition scheme	Relating to other registered entities	Total payment to registered entities	
(1)	(2)	(3)	(4)	(5)	(6)	(7)"

Prov for Exp Y Y Y Y Y Y

Imports Y Y

ElectricityY Y Y

RCM exp Y Y Y

Rebate discount Y Y Y Y Y Y

~~Remuneration and Interest to partner~~

Difficulty in compilation or reporting

If the assessee is not in a position to give the details as required in clause 44, an appropriate disclosure/disclaimer may be made by the auditor in Form 3CA/3CB.

- Suggestive note is given at the end of presentation
- Para 82.15 of Exposure draft of GN

Quoting of PAN

Rule 114B of I.T. Rules

Sale or purchase, by any person, of goods or services

- More than 2Lakhs per transaction

Other clauses

The Board observed that there were various clauses and sub clauses in respect where no information is to be given, instead of leaving the same blank, "Nil", "0" or "NA" could be mentioned for better reporting.

Thus, the Board opined that appropriate awareness about this issue could avoid this sort of instances in future.

[redacted]

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Chairman

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