

Tax Audit

under section 44AB of Income Tax
Act, 1961

-PRESENTED BY
BNC &
ASSOCIATES
RPJ &
ASSOCIATES
CHARTERED ACCOUNTANTS

Applicability of Tax Audit (Sec. 44AB)

- ▶ Every person carrying on business shall, if his total sales, turnover or gross receipts, as the case may be, in business exceeds Rs. 60 Lac (earlier 40Lac) in any previous year, get his accounts audited by a Chartered Accountant before the Specified date i.e. 30th September of relevant Assessment year.
- ▶ In case of a person carrying on profession, the provisions of compulsory tax audit are applicable if his gross receipts in profession exceeds Rs. 15 Lac (earlier Rs. 10Lac) in any previous year.

Components of Tax Audit Report

- ▶ A Tax Audit Report consists of:-
 - ▶ in case of an assessee (e.g. company), who is required to get his accounts audited under any other act ,
 - Form No. 3CA
 - Form No. 3CD
 - ▶ in case of any other person,
 - Form No. 3CB
 - Form No. 3CD

Audit Report : Form No. 3CA

It consists of 4 Parts

First Part:

In first part, the auditor has to mention that the statutory audit of the concern was conducted by a Chartered Accountant as per the relevant provisions of the act, and a audit report along with the relevant audited financial statements are annexed.

Second Part :

In this part, the auditor has to mention that the Statement of Particulars has been annexed to the Form No. 3CD.

Audit Report : Form No. 3CA

Third Part:

In this part, the auditor has to give a declaration that the particulars given in 3CD (based on the information given provided to us by the management), are true and correct.

Fourth Part:

Item No. 4 of the notes to Form No. 3CA requires that the person, who signs this audit report, shall indicate reference of his membership no, Firm/Proprietor registration No as allotted by ICAI to its members and authority under which he is entitled to sign this report.

Audit Report : Form No. 3CB

▶ **It consists of Six parts:-**

▶ **First Part :**

It refers to a declaration given by Chartered Accountant, that the Balance Sheet and the Profit & Loss account as on 31st March of the relevant previous year, have been duly examined.

▶ **Second Part :**

It refers to the certification given that the Balance Sheet and Profit & Loss account are in agreement with the books of account maintained.

▶ **Third Part :**

(A) refers that all the information which was required for the purpose of audit was received,

(B) books of account kept are proper, and

(C) Balance Sheet and the Profit & Loss account give a true & fair view.

▶ **Fourth Part:**

It refers that the statement of particulars required to be given as per Sec 44AB has been annexed to form No. 3CD.

▶ **Fifth Part:**

It refers that the particulars given in Form 3CD are true and correct to the best of our knowledge and explanations given to us.

▶ **Sixth Part:**

It contains the name of the Chartered Accountant along with his Membership No, Firm/Proprietor registration No as allotted by ICAI to its members and Date and Place.

Form No. 3CD PART A

1. Name of the Assessee
2. Address
3. Permanent Account Number
4. Status "Status" refers to assessee-status-i.e.. Individual/HUF/Firm/Company/AOP/BOI/AJP
5. Previous year ended
6. Assessment year

Form No. 3CD - Part A

- ▶ In Clause 1, the name of assessee whose accounts are being audited should be given. However, in case of Branches, name of such branch should be mentioned along with the name of assessee.
- ▶ In Clause 2, the address should be same as has been communicated by the assessee to the Income Tax Department for assessment purpose as on date of signing of audit report.
- ▶ In Clause 3, the Permanent Account Number (PAN) allotted to the assessee should be mentioned. In case the PAN has been applied and the same has not been received as on date of signing of audit report, the fact should be indicated.
- ▶ In Clause 4, the status of the assessee should be indicated. In case of dispute, the full facts should be mentioned.
- ▶ In Clause 5 & 6, the Previous Year and the relevant Assessment Year should be mentioned.

Form No. 3CD

PART B

7(a) If firm or Association of Persons, indicate names of partners/members and their, profit sharing ratios.

(b) If there is any change in the partners or members or in their profit sharing ratio since the last date of the preceding year, the particulars of such change

Clause 7(a)

- No need to furnish remuneration or interest to partners

Clause 7(b)

- The word "particulars" includes the date/s of change/s also.
- Admitting a minor to the benefits of partnership is also a 'change in the partners'.
- Whether there is any change in the constitution of the firm or not, is to be decided in the light of S. 187 of the act read with sections 31 to 44 of Indian Partnership Act, 1932.

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(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.

- Change after the balance sheet date should be ignored.
- Instances of change in business or profession that is to be reported
- State the principal line of each business or profession against Cl. 8(a).
- If the assessee is a service provider, broadly state the nature of each type of service against the clause 8(a).
- Proper classification is necessary since the Code Nos. are required to be mentioned in Part B of Annexure – I to Form 3CD.

9.

a. Whether books of account are prescribed u/s 44AA, if yes, list of books so prescribed.

b. Books of account maintained (In case books of account are maintained in a computer system, mention the books of account generated by such computer system.)

c. List of books of account examined

- CBDT has prescribed books of account only for specified professionals
 - Accountancy
 - Architectural
 - Authorized representative
 - Company secretary
 - Engineering
 - Film artist
 - Information Technology
 - Interior decoration
 - Legal
 - Medical
 - Technical consultancy

Company cannot be a professional

Books of Account to be maintained

► By Specified professionals IFF gross receipts > Rs.1,50,000

- Cash book, Journal, Ledger;
- Carbon copies of bills and receipts serially numbered, where sum exceeds Rs. 25.
- Original bills and receipts for exp. incurred or, where such bills and receipts are not issued and the expenditure incurred < Rs. 50, payment vouchers prepared and signed by the person, unless the cash book contains adequate particulars in respect of the expenditure;
- For medical profession, apart from the above books, a daily case register in Form No.3C and an inventory of stock of drugs, medicines etc. should be maintained. [Rule 6F]

► By Businessmen and other professionals (not specified above):

- a) Income > Rs. 1.20 Lacs or
- b) Total sales, turnover or gross receipt > Rs. 10 Lac

(No account books have been prescribed by CBDT in case of above.)

► Besides, where an assessee is covered U/S.44AD, S.44AE, S. 44BB or S.44BBB & he/she claims that his income is lower than that computed under the respective Sections then he/she shall compulsary maintain the aforesaid books of account.

10. Whether the profit and loss account includes any Profits and gains assessable on presumptive basis, if yes, indicate the amount and the relevant section (44AD, 44AE, 44B, 44BB, 44BBA, 44BBB or any other relevant section.)

■ **S. 44AD: Applicable to any Business except those covered under sec 44AE** [as amendment from A.Y. 2011-12]

- 8% of gross receipts or any higher amount
- Applicable only to Individual, HUF & Firm (not LLP).

■ **S 44E: Business of Plying, hiring or leasing goods carriages**

- Rs.5,000 PM for heavy goods vehicle and Rs.4,500 PM for other vehicles or any higher amount [NA if assessee owns > 10 goods carriages any time during PY]

11.

- (a) **Method of accounting** employed in the previous year
- (b) Whether there had been any **change** in method of accounting employed vis-à-vis the method employed in the immediately preceding previous year
- (c) If answer to (b) above is in the affirmative, give details of such change, and the effect thereof on the profit or loss
- (d) Details of deviation, if any, in the method of accounting employed in the previous year from accounting standards prescribed under section 145 and the effect thereof on the profit or loss.

■ **Clause 11(a)**

- Method of Accounting – Mercantile or Cash

■ **Clause 11(b)**

- Only non-corporate assessee can change their method of accounting from cash to mercantile or vice-versa.

■ **Clause 11(c)**

- 'Effect thereof on the profit or loss' refers to the effect on the profit or loss as per the P&L a/c. It does not refer to the effect on taxable income.
- Non-disclosure of a change in accounting policy will have to be reported under clause 11(d) and not under this clause.

■ **Clause 11(d)**

- S.145 (1) requires the assessee to comply with the AS notified u/s 145(2).
- NAS(IT)- I - Disclosure of Accounting Policies and
- NAS(IT)-II - Disclosure of prior period items and extraordinary items and changes in accounting policies.

12.

- (a) **Method of valuation of closing stock** employed in the previous year
- (b) Details of **deviation**, if any, from the method of valuation prescribed u/s 145A, and the effect thereof on the profit or loss
- 12A. 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.*

■ **Clause 12(a):**

- Raw material – at cost;
- Finished goods – at cost or NRV, whichever is lower.

COST

- Cost of inventories should include cost of purchase, cost of conversion and all cost incurred to bring the inventories to their present location and condition
- The cost of inventories should be assigned by using the Specific identification or **FIFO or weighted average or any other** cost formula method as described in AS-2
- Appropriate method should be selected keeping in mind the pre-requisite of AS-2

NET RELISABLE VALUE: (NRV)

- NRV should be estimated at each balance sheet date.
- Estimates of NRV should take into consideration fluctuations of price or cost directly relating to events occurring after the B/S date to the extent that such events confirm the conditions existing at the B/S date.

COMPARISON BETWEEN COST AND NRV:

- Item-by-item basis or on group of similar or related items basis. **Aggregate comparison is not permissible.**

Clause 12(b)

S. 145A Notwithstanding anything to the contrary contained in S.145, the **valuation** of purchase and sale of goods and inventory for the purposes of determining the income chargeable under the head "PGBP" shall be-

1. in accordance with the method of accounting regularly employed by the assessee: and
2. further adjusted to **include the amount of any tax, duty, cess or fee** (by whatever name called) 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.

Clause 12A:

1. The particulars of clause 12A have to be furnished with reference to the previous year in which the capital asset was converted into stock-in-trade.
 2. Though the purpose of reporting is keeping in view the provisions of S. 45(2), the tax auditor is not required to compute to market value, capital gain, business profit etc.
1. He has to disclose the date of acquisition of asset and cost acquisition.
 2. He has to report the amount at which the asset is converted into stock-in-trade (as per books of account). If the conversion value is at the book value of asset, he has to report the fact under this clause.

13. 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

Clause 13:

- Sub-clause (b) and (c) will not apply to an assessee following the cash basis of accounting.
- According to ICAI, If the letter admitting the amount is dated say 28-3-2007 and received by the assessee on 2-4-2007, it is "admitted by the authorities within the previous year".

Clause 13(a) of Section 28 - Reference to S. 28

Section	Provision in Brief Covers -
28(i)	Profits /Gains of Business or Profession
28(ii)	Any Compensation received for termination or modification of agency etc.
28(iii)	Income of trade/professional associations
28(iia)	Profit on sale of import license
28(iiib)	Cash Assistance or Other export incentives
28(iiic)	Duty Drawback of excise or customs
28(iiid/e)	Transfer of DEPB/DRC
28(iv)	Value of benefit or perquisite arising from business or profession
28(v)	Interest, salary, bonus, commission to partner
28(vi)	Keyman Insurance Policy proceeds including bonus
28(vii)	Receipt on destruction of capital asset if the entire asset is allowed deduction u/s. 35AD, etc

14. 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 :-
- Description of asset/block of assets
 - Rate of depreciation
 - Actual cost or written down value, as the case may be
 - 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: Modified Value Added Tax credit claimed and allowed under the Central Excise rules, 1944, in respect of assets acquired on or after 1st March, 1994,
 - change in rate of exchange of currency, and**
 - subsidy or grant or reimbursement, by whatever name called**
 - Depreciation allowable
 - Written down value at the end of the year

Applicability of clause 14 -

Regular Depreciation u/s 32(1)(i)/(ii)	Addition depreciation u/s 32(1)(iia)
Available in respect of tangible assets (buildings, machinery, plant and furniture) and intangible assets.	Available only for plant and machinery items excluding the following: <ul style="list-style-type: none"> Ships and aircrafts. Machinery/ plant installed in any office, premises/residential, accommodation in the nature of guest house. Office appliances/road transport vehicles. Any plant/machinery whose 100% of actual cost has been allowed as deduction.
Available in respect of new as well as second-hand items	Available only in respect of new item.
Rates will be prescribed % on WDV	Rate is 20% of actual cost if acquired and installed on or after 1-4-2005 and 15% of acquired and installed on or after 1-4-2002 but before 1-4-2005.
Available to all assesses across the board	Available only to assesses who manufacture or produce articles/things.
Assessee will be allowed depreciation irrespective of whether he claims it or not.	Same

15. Amounts admissible under sections –
33AB, 33ABA, 33AC, 35, 35ABB, 35AC, 35CCA, 35CCB, 35D, 35DD, 35DDA, 35E
- debited to the profit and loss account (showing the amount debited and deduction allowable under each section separately);
 - not debited to the profit and loss account

Clause 15 of Form 3CD

- S. 33AB – Tea, Coffee, Rubber Development Account
- S. 33ABA – Site Restoration Fund
- S. 35 – Scientific Research Expenditure
- S. 35ABB – License to operate Telecommunication Services
- S. 35AC – Expenditure on eligible projects
- S. 35CCA – Payment to Assn. carrying out rural dev. Prog.
- S. 35D – Amortisation of preliminary expenses
- S. 35DD – Expenditure on Amalgamation
- S. 35DDA – Amortisation of VRS Expenditure
- S. 35E – Expenditure on prospecting certain minerals

Clause 16 of Form 3CD

- ▶ (a) Any sum paid to an employee as bonus or commission for services rendered, where such sum was otherwise payable to him as profits or dividend. [Section 36(1)(ii)]
- ▶ (b) Any sum received from employees towards contributions to any provident fund or superannuation fund or any other fund mentioned in section 2(24)(x); and due date for payment and the actual date of payment to the concerned authorities u/s 36(1)(va)

17. Amounts debited to the profit and loss account, being :-
- (a) expenditure of **capital** nature;
 - (b) expenditure of **personal** nature;
 - (c) expenditure on **advertisement in any souvenir, brochure, tract, pamphlet or the like**, published by a political party;
 - (d) expenditure **incurred at clubs**, -
 - (i) as entrance fees and subscriptions
 - (ii) as cost for club services and facilities used
 - (e) (i) expenditure by way of **penalty or fine for violation of any law** for the time being in force;
 - (i) any other penalty or fine;
 - (ii) expenditure incurred for any purpose which is an **offence** or which is prohibited by law;
 - (f) **amounts inadmissible under section 40(a)**;
 - (g) **Interest, salary, bonus, commission or remuneration inadmissible under section 40(b)/40(ba) and computation thereof**;
 - (h) (A) whether a **certificate** has been obtained from the assessee regarding payments relating to any expenditure covered under section 40A(3) that the payments were made by account payee cheques drawn on a bank or account payee bank draft, as the case may be
 (B) amount **inadmissible under section 40A(3)**, read with rule 6DD [with break-up of inadmissible amounts]
 - (i) **provision for payment of gratuity** not allowable under section 40A(7);
 - (j) any sum paid by the assessee as an employer not allowable under section 40A(9);
 - (k) particulars of any liability of a **contingent nature**
 - (l) 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**;
 - (m) amount inadmissible under the **proviso to section 36(1)(iii)**;

CLAUSE 17(a)

- ❖ Capital expenditure is not allowable in computing business income unless specifically provided in any sections of the Act.
The word 'Capital expenditure' is not defined in the Act.
- ❖ Some tests which however are generally applied to determine whether a particular item of expenditure is of capital nature, are set out hereunder:
 - ⌚ Whether it brings into existence an asset or advantage of enduring benefit.
 - ⌚ Whether it is referable to fixed capital or fixed assets in contrast to circulating capital or current assets.
 - ⌚ Whether it is an initial expenditure or an expenditure incurred in setting the profit earning machinery into motion.
 - ⌚ Whether it is an expenditure to acquire a concern or goodwill.
- ❖ The Capital expenditure, if any, debited to the profit & loss A/c should be disclosed in a classified manner stating the amount on various heads separately as part of this Capital expenditure may be allowable as deduction in the computation of total income.

Clause 17(b)

- The existence of that private advantage does not necessarily preclude the exclusivity of the business purposes.
- **The word 'personal' is confined to and attached with the assessee.** It does not necessarily extend to persons other than the assessee (e.g. employees).

Clause 17 (c)

- Expenditure incurred in publishing an advt. in newspaper or magazine or journal published by a political party need not be disclosed under this clause. Based on the rule of "ejusdem generis" under interpretation of statutes by which the words "or the like" appearing the clause will necessarily have to derive its meaning from the words souvenir, brochure, tract or pamphlet only.

Clause 17(d)

- Payments to service organizations such as Rotary, Lions, Jaycees, Giants would not necessarily be treated as payment to clubs [Para 31.2 of G.N].
- **Payments in respect of both employees and directors/partners/proprietors should be reported under this clause in case of companies.**
- If any portion of expenditure incurred on clubs of a personal nature, the same should be shown separately under clause 17(b). [Para 31.1 of G.N].

Clause 17(e)

- The tax auditor's opinion on deductibility or non-deductibility of penalty/fine/expenditure incurred for offence/purpose prohibited by law is not required. [Para 32.1].
- Payments for breach of contract of payments for redressal of contractual wrongs are not required to be reported under this clause.
- If the impost is purely compensatory in nature, the same is not required to be reported under clause 17(e).
- Lachmandas Mathurdas Vs CIT (2002) 254 ITR 799 (SC) – Interest on arrears of sales tax was considered as not being penal but compensatory in nature.

Clause 17(h)

- If an amount is disallowed u/s 40(b) and the same has been paid in cash in violation of S. 40A(3), can such expenditure be disallowed under both sections?
- It has been held that disallowance u/s Section 40A(3) cannot be made when net profits are computed estimated basis. [CIT Vs Purushothamalal Tamrakar (2004) 270 ITR 314 (MP)], [ACIT Vs Padamchand Bhansali 86 IJ 215 (JD)].

Clause 17(i)

- If provision for gratuity is not made in accordance with GAAP, tax auditor will have to qualify his report in Form NO.3CB. Non-allowability under S. 40A(7) is no excuse for not making a provision in accordance with GAAP.

Clause 17 (j):

Provisions of S. 40(a)

S. 40(a) disallows the following.

- Interest, royalty, fees for technical services or other sum chargeable under this Act, which is payable.
 - outside India; or
 - In India to a non-resident, not being a company or to a foreign company and if the tax has not been paid thereon nor deducted there from
- STT;
- FBT;
- Amount of tax levied on the PGBP or assessed at a proportion of, or otherwise on the basis of, any such profits or gains.
- Wealth-tax.
- Payment to a PF or other fund established for employees benefit, unless proper arrangements of TDS on any taxable payment out of such fund are made
- Income Tax paid by employer on Perquisites of employee [S. 40(a)(v)]
- Interest, commission or brokerage, rent, royalty, fees for professional or technical services to resident on which TDS is not deducted or paid within the due date.**
- Any payment which is chargeable under the head Salaries, if it is payable
 - outside India; or
 - to a non-resident, and if the tax has not been paid thereon nor deducted there from under chapter XVII-B;

MSMEDA 2006 Micro, Small & Medium Enterprises Development Act

Particulars	Investment	
	Plant & Machinery (Manufacturing)	Equipment (Service)
Micro Enterprises *	Upto 25 Lacs	Upto 10 Lacs
Small Enterprises *	25 Lacs to 5 Crores	10 Lacs to 2 Crores
Medium Enterprises	5 Crores to 10 Crores	2 Crores to 5 Crores

*Suppliers – to file a memorandum

Obligations of buyer under the Act:

- Pay within agreed time which cannot exceed 45 days from date of acceptance/date of deemed acceptance. If no time for payment has been agreed then payment should be made on or before the appointed time i.e. 15 days from acceptance.
- Otherwise - pay compound interest at 3 times of bank rate notified by RBI.
- Interest will apply even if contract states otherwise.
- **Not to claim deduction (under the IT Act) of the interest paid/payable.**

According to S. 22 of MSMEDA, **where any buyer is required to get his annual accounts audited under any law** for the time being in force, such buyer shall furnish the following additional information in his annual statement of accounts.

- The principal amount and the interest due thereon remaining unpaid to any supplier as at the end of each accounting year;
- Interest paid by the buyer in terms of S. 16, along with payment amount made to the supplier beyond the appointed day during each accounting year;
- Interest due and payable for the period of delay in making payment
- Interest accrued and remaining unpaid at the end of each accounting year; and
- 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 u/s 23.

Tax Auditors duties

- The Interest liability/payment under S. 16 if debited to P&L a/c will have to be mentioned by the tax auditor in his tax audit report **under clause 17(e)** as this amount is incurred for a purpose which is contravention of law.

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

Clause 18:

- The tax auditor is only required to give particulars of payment to persons specified under S. 40A(2)(b) under this clause.
- He is not required to give his opinion on the unreasonability/excessiveness of the payments. That is the AO's prerogative.

19. Amounts deemed to be profits and gains under section 33AB or 33ABA or 33AC

Sections 33AB and 33ABA lay down the circumstances under which amount withdrawn from deposits covered thereby for purposes other than specified purposes, is to be deemed income chargeable as profits and gains. Tax auditor is required to report such amounts

Similarly Section 33AC (3) allows deduction in respect of reserve created out of the profit of the assessee engaged in shipping business to be utilized in accordance with the provision of sub section (2) of section 33AC. However consequent to the amendment made by the Finance (No.2) Act, 2004, no deduction shall be allowed under section 33AC for any assessment year commencing on or after 1st day of April, 2005.

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

Section 41 mainly includes

- a.) Recovery of any loss, expenditure or trading liability, earlier allowed as deduction.
- b.) In case of undertaking engaged in generation/ distribution of power, if building, machinery, plant or furniture is sold/discarded/demolished or destroyed.
- c.) When an asset used for scientific research is sold.
- d.) Subsequent recovery of bad debt, earlier allowed as deduction.
- e.) Amount withdrawn from special reserve created under section 36(1)(viii).

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 & loss A/c or not.

21. (i) In respect of any sum referred to in clause (a), (b), (c), (d), (e)/ (f) of section 43B, the liability for which;

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

- (a) paid during the previous year;
- (b) not paid during the previous year;

(B) was incurred in the previous year and was:

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

(ii) *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.

Clause 21

SECTION 43B MAINLY INCLUDES:

- any tax, duty, cess or fee payable under any law for the time being in force
- employer's contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees
- any bonus or commission payable by the assessee to its employees
- interest on any loan or borrowing from any public financial institution, state financial corporation or a state industrial investment corporation
- interest on any loan or advances from a scheduled bank
- sum payable by the assessee in lieu of any leave at the credit of employees

➤ Clause 21(a) states that deduction for any liability which was pre-existed on the first day of previous year is allowed if the payment for the same is being made during the current year or till the date of furnishing the return of income under section 139(1).

➤ Clause 21(b) states that deduction for any liability incurred during the year is allowed if the if the payment for the same is being made during the current year or till the date of furnishing the return of income under section 139(1).

22 (a) Amount of **Modified Value Added Tax credits (now Cenvat credits)** availed of or utilised during the previous year and its treatment in the profit and loss account and treatment of outstanding Modified Value Added Tax credits in the accounts

(b) Particulars of income or expenditure of **prior period credited or debited** to the P&L account

Clause 22 (a)

MOD VAT credits availed of or utilized during the previous year and its treatment in the profit and loss account and treatment of outstanding MOD VAT credits in the accounts.

According to CENVAT Credit Rules, 2004

Tax auditor should check relevant statutory records viz. RG-23 (both parts) & the records maintained under CENVAT Credit Rules, 2004

The tax auditor may consider reporting under this clause in the following manner:

	Capital goods	Other s
Balance representing CENVAT credits as at the beginning of the year		
CENVAT credit available during the year		
Less : amount of CENVAT credit utilised during the year		
Balance representing outstanding amount as at the end of the year		

Clause 22(b)

Particulars of income or expenditure of prior period credited or debited to the profit and loss account.

There is difference between expenditure of any earlier year debited to the profit and loss account and the expenditure relating to any earlier year, which has crystallised during the relevant previous year

Material adjustments necessitated by circumstances which though related to previous periods but determined in the current period, will not be considered as prior period items.

23. 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. [Sec.69D]

Details of the amount borrowed on hundi (including interest on such amount borrowed) and details of repayment otherwise than by an account payee cheque, are required to be indicated under this clause.

The Tax auditor should obtain a complete list of borrowings and repayments of hundi loans otherwise than by account payee cheques and verify the same with the books of account.

He should make a suitable comment in his report as suggested below which is exactly similar to the one suggested in respect of expenditure paid otherwise than through an account payee cheque [Section 40A(3)].

24 *(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 otherwise than by an account payee cheque or an account payee bank draft

Note –

If the total of all Loans/Deposit in a year exceed Rs. 20000 but each individual item is less than Rs. 20000 the information will be still given .

24.

(b) Particulars of each repayment of loan or deposit 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 amounts outstanding in the account at any time during the previous year;

(iv) whether the repayment was made otherwise than by account payee cheque or account payee bank draft

Note –

All the repayments made to any person where the deposit along with interest is Rs. 20000 or more are to be reported under this Sub Clause.

Deposit Includes Deposit of any nature in case of a person other than a company. In case of company deposit repayable on demand will not be considered as a deposit.

(c) Whether a certificate has been obtained from the assessee regarding taking or accepting loan or deposit, or repayment of the same through an account payee cheque or an account payee bank draft. [Yes/No]

■ The particulars in the clause 24 (a), 24 (b) and 24 (c) need not be given in the case of a repayment of any loan or deposit taken or accepted from Government, Government company, banking company or a corporation established by a Central, State or Provincial Act

Clause 24(a)

- Sale proceeds collected by the selling agent (on behalf of his principal) is not a loan or deposit.
- Advance received against sale is not a loan or deposit.
- Security deposits against contracts, etc. are 'deposits'.
- The entries that relate to transactions with a supplier and customer are not loan or deposits accepted.
- If the aggregate loans/deposits in a year (from a singly party) exceed Rs.20,000 but each individual item is less than Rs.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 Rs.20,000 or more and until the balance goes down below Rs.20,000.

25.

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

Serial Number	Assessment Year	Nature of Loss/allowance (in Rs)	Amount as Returned (in Rs)	Amount as Assessed (give Reference to Relevant order)	Remarks

- (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.

Clause 25(a)

- Amount to be stated as per return and assessment orders, appellate orders, revision and rectification orders of **Past A.Ys**.
- Should be separately given under each **head of income** under which the loss/depreciation remain unabsorbed.
- In the Remarks column information about pending assessment / appeals / rectification / revision proceedings or delay in filing loss returns may be given.

Clause 25(b)

- Applies only to Cos. in which public are not substantially interested.
- Provision of S. 79 - will not apply in the following cases where a change in the said voting power takes place in a PY as a result of
 - **Death of a shareholder**; [first proviso to S. 79]
 - **Gift of shares** to **any relative** of the shareholder making such gift; and
 - **Amalgamation or Demerger of a foreign company** subject to the condition that 51% shareholder of the amalgamating or demerged foreign company continue to be the shareholders of the amalgamated or the resulting foreign company.

Unabsorbed Depreciation u/s 32(2) & unabsorbed Scientific Research Allowance u/s 35(4) can be carried forward, despite change shareholding > 51%.

26. Section-wise details of deductions, if any, **Admissible** under **Chapter VIA**

27.

- (a) Whether the assessee has complied with the provisions of Chapter XVII-B regarding **deduction of tax at source** and regarding the payment thereof to the credit of Central Government [Yes/No]

- (b) If the provisions of Chapter XVII-B have not been complied with, please give the following details*, namely:-

- (i) Tax deductible and not deducted at all
- (ii) shortfall on account of lesser deduction than required to be deducted
- (iii) tax deducted late
- (iv) tax deducted but not paid to the credit of the Central Government

"Please give the details of cases covered in (i) to (iv) above."

Clause 27

There are a number of debatable issues involved -So it may not be possible to give a yes/no answer to clause 27(a). Tax auditor may make appropriate comments against clause 27(a) along the following lines:

If the tax auditor is Satisfied regarding TDS compliance

"We have verified the compliance with the provisions of chapter XVII-B regarding deduction of tax at source and regarding the payment thereof to the credit of the Central Government. Our verification has been carried out in accordance with the Auditing Standard generally accepted in India, which includes test checks and concept of materiality. On the basis of verification aforesaid, we have not come across any material non-compliance with the provisions of Chapter XVII-B regarding deduction of tax at source and regarding the payment thereof to the credit of the Central Government."

If the tax auditor is NOT Satisfied regarding TDS compliance

"We have verified the compliance with the provisions of chapter XVII-B regarding deduction of tax at source and regarding the payment thereof to the credit of the Central Government. Our verification has been carried out in accordance with the Auditing Standards generally accepted in India which include test checks and concept of materiality. The non-compliances revealed during our verification as aforesaid have been mentioned in item 27(b) hereunder".

Clause 27(b)(i) "Tax deductible and not deducted at all"

Sl. No.	Relevant Section	Particulars of the amount credited / paid	Amount of tax deductible but not deducted	Remarks

Clause 27(b)(ii) "shortfall on account of lesser deduction than required to be deducted"

Sl. No.	Relevant Section	Particulars of the amount credited / paid	Amount of Tax deductible	Amount of tax deducted	Remarks

Not deducting SC or Cess tantamounts to short deduction.

The non-compliances required to be reported in clause 27(b)(iii) "Tax deducted late" may be in the following format:

Sl. No.	Relevant Section	Particulars of the amount credited / paid	Amount of Tax deductible	Due date of deduction	Amount of tax deducted	Remarks

Clause 27(b)(iv) "Tax deducted but not paid to the credit of the Central Government".

Sl. No.	Relevant Section	Particulars of the amount credited / paid	Amount of tax Deducted	Tax Deducted but not deposited with the Central Govt.	Remarks

Report only cases where
TDS has been deducted but not paid before the last date of the previous year under audit.

28.

- (a) In the case of a trading concern, give **quantitative details** of principal items of goods traded :
- Opening Stock;
 - Purchases during the previous year;
 - Sales during the previous year;
 - Closing Stock;
 - Shortage/excess, if any
- (b) In the case of a manufacturing concern quantitative details of the principal items of raw materials, finished products and by-products:

A. Raw Materials:

- Opening stock;
- Purchases during the previous year;
- Consumption during the previous year;
- Sales during the previous year;
- Closing stock;
- * yield of finished products;
- * Percentage of yield;
- * Shortage/excess, if any extent available.

*To the

B. Finished products/By-products :

- opening stock;
- purchase during the previous year;
- quantity manufactured during the previous year;
- sales during the previous year;
- closing stock;
- shortage/excess, if any

* information may be given to the extent available.

29. In the case of a domestic company, details of **tax on distributed profits** under section 115O in the following form :-

- total amount of distributed profits;
- total tax paid thereon;
- dates of payment with amounts

The tax on distributed profits refers to the tax paid on dividends declared by the company and is known by the name dividend distribution tax.

The present rate of Dividend Distribution Tax is 15% as increased by the applicable rate of surcharge and educational and higher educational cess.

30. Whether any **cost audit** was carried out, if yes, enclose a copy of the report of such audit [See section 139(9)]

31. Whether any audit was conducted under the **Central Excise Act, 1944**, if yes, enclose a copy of the report of such audit

32. **Accounting ratios** with calculations as follows :-

- Gross profit/Turnover;
- Net profit/Turnover;
- Stock-in-trade/Turnover;
- Material consumed/Finished goods produced

Clause 32:

- Numerators and denominators used for calculating the ratio should also be specified.
- Ratios have to be given for the business as a whole.
- In case of a partnership firm, the net profit ratio should be calculated after charging such interest and remuneration as these items constitute a charge of profit as per GAAP.

Place:
Date:

Name:
Address:

Annexure - I	
PART A	
1. Name of the assessee	
2. Address	
3. Permanent Account Number	
4. Status	
5. Previous year ended	
6. Assessment year	
PART B	
Nature of business or profession in respect of every business or profession carried on during the previous year	
CODE	

		Current Year	Preceding Year
Sl. No.	Parameters		
1	Paid-up share capital/capital of partner/proprietor	XXXXX	XXXXX
2	Share Application Money/Current Account of Partner or Proprietor, if any,	XXXXX	XXXXX
3	Reserves and Surplus/Profit and Loss Account	XXXXX	XXXXX
4	Secured loans	XXXXX	XXXXX
5	Unsecured loans	XXXXX	XXXXX
6	Current liabilities and provisions	XXXXX	XXXXX
7	Total of Balance Sheet	XXXXX	XXXXX
8	Gross turnover/gross receipts	XXXXX	XXXXX
9	Gross profit	XXXXX	XXXXX
10	Commission received	XXXXX	XXXXX
11	Commission paid	XXXXX	XXXXX
12	Interest received	XXXXX	XXXXX
13	Interest paid	XXXXX	XXXXX
14	Depreciation as per books of account	XXXXX	XXXXX
15	Net Profit (or loss) before tax as per Profit and Loss Account	XXXXX	XXXXX
16	Taxes on income paid/provided for in the books	XXXXX	XXXXX

