TAX AUDIT

A DISCUSSION

AUGUST 19 2022

WHY TAX AUDIT?

- Finance Bill, 1984,
- the compulsory audit is intended to ensure proper maintenance of books of account and other records, in order to reflect the true income of the tax payer and to facilitate the administration of tax laws by a proper presentation of the accounts before the tax authorities. This would also save the time of the Assessing Officers considerably in carrying out the verification.

Turnover limit for the previous year	Amount of profit with respect to turnover (in %)	Whether cash receipts less than 5% of the Turnover	Whether cash payment less than 5% of the total payment	Is Tax audit Applicable?
More than 10 Crores	Not applicable	Not applicable	Not applicable	Yes
More than 2 crore but upto 10 Crore	Not applicable	Yes	Yes	No
More than 2 crore but upto 10 Crore	Not applicable	No	No	Yes
More than 1 crore but upto 2 Crore	More than 8% or 6% of Turnover	Not applicable	Not applicable	No
More than 1 crore but upto 2 Crore	Less than 8% or 6% of Turnover	Not applicable	Not applicable	Yes
Less than 1 Crore	More than 8% or 6% of Turnover	Not applicable	Not applicable	No
Less than 1 Crore	Less than 8% or 6% of Turnover	Not applicable	Not applicable	Yes

TURNOVER

Sl No	Details	Amount
1	Total Turnover	10,00,00,000
2	Invoice Discount	1,00,000
3	Cash Discount	1,00,000
4	Turnover Discount	1,50,000
5	Special Rebate	50,000
6	Commission on Sales	1,00,000
7	Sales Returns	2,00,000
8	Sale of fixed assets	3,00,000
9	Sale of property	3,40,000
10	Sale of shares held as Investment	2,00,000
11	Sale of Shares held as Stock	6,00,000
12	Tax Audit turnover	9,86,60,000

DUE DATE

- 30th September
- Lesser of 0.5% of turnover or Rs 1.50 lakhs
- Reasonable Cause

LIMIT

- 60 per partner
- B K Kamath vs ICAI- Kerala High Court- (2003) 130 TAXMAN 0435

REASONABLE CAUSE

- Resignation of the tax auditor and consequent delay;
- Bona fide interpretation of the term `turnover' based on expert advice;
- Death or physical inability of the partner in charge of the accounts;
- Labour problems such as strike, lock out for a long period, etc.;
- Loss of accounts because of fire, theft, etc. beyond the control of the assessee;
- Non-availability of accounts on account of seizure;
- Natural calamities, commotion, etc.
- Resignation of the accountant and his consequent non-cooperation.
- Official E filing portal (of the Income-tax department) failure

FEES

- 40,000
- 30,000
- 22,000

THE END RESULT

FORM NO. 3CA

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

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

*I/we report that the statutory audit of M/s. ..... (Name and address of the assessee with Permanent Account Number or Aadhaar Number) was conducted by *me/us/M/s. ..... in pursuance of the provisions of the .....Act, and*I/we annex hereto a copy of *my/our/their audit report dated ..... along with a copy of each of :-

(*a*) the audited *profit and loss account/income and expenditure account for the period beginning from .....to ending on .....

(*b*) the audited balance sheet as at, ...; and

(*c*) documents declared by the said Act to be part of, or annexed to, the *profit and loss account/income and expenditure account and balance sheet.

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

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

a. .....

b. .....

c. .....

.....

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

Place: .....

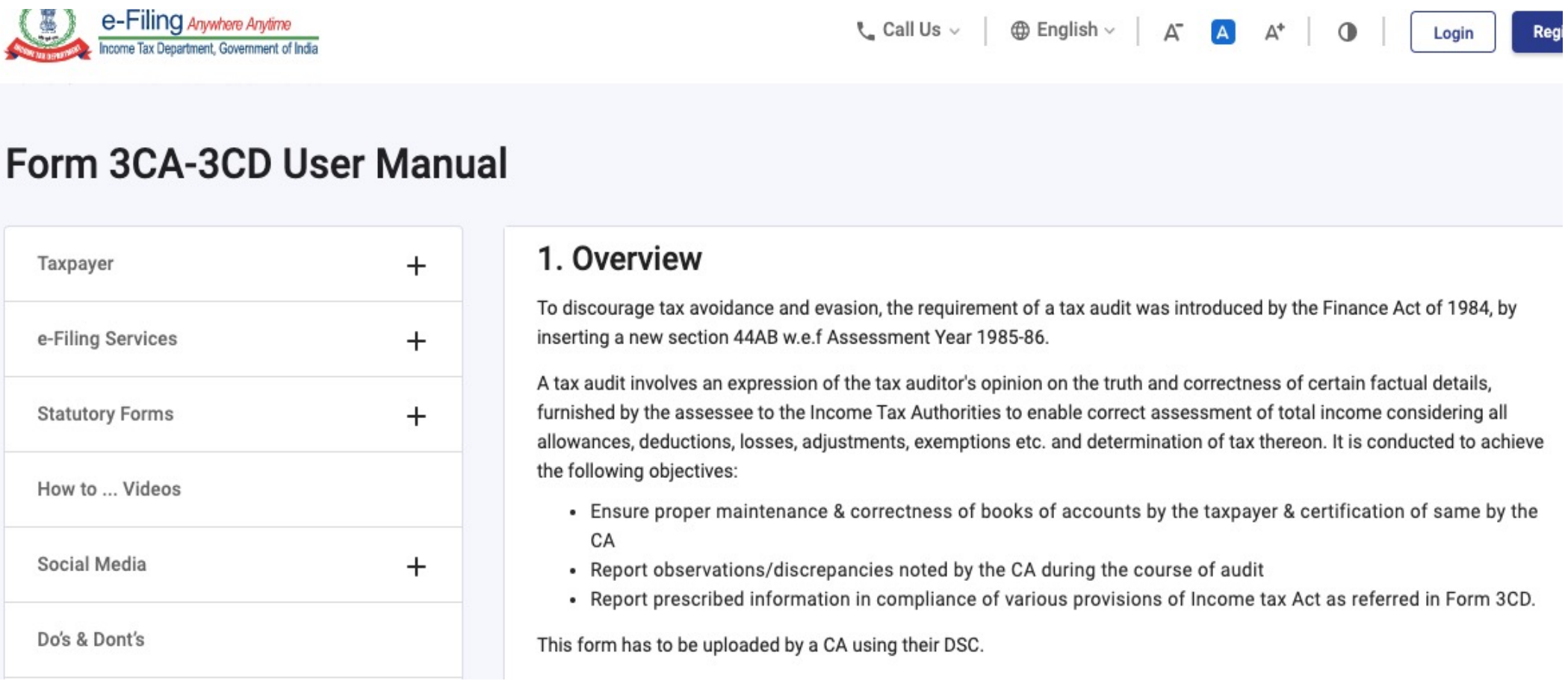
Date: .....

Name of the signatory .....

Full address .....

Notes :

THE UTILITY


e-Filing Anywhere Anytime
Income Tax Department, Government of India
Call Us
English
Login
Reg
Form 3CA-3CD User Manual
Taxpayer
e-Filing Services
Statutory Forms
How to ... Videos
Social Media
Do's & Dont's
1. Overview
To discourage tax avoidance and evasion, the requirement of a tax audit was introduced by the Finance Act of 1984, by inserting a new section 44AB w.e.f Assessment Year 1985-86.
A tax audit involves an expression of the tax auditor's opinion on the truth and correctness of certain factual details, furnished by the assessee to the Income Tax Authorities to enable correct assessment of total income considering all allowances, deductions, losses, adjustments, exemptions etc. and determination of tax thereon. It is conducted to achieve the following objectives:
• Ensure proper maintenance & correctness of books of accounts by the taxpayer & certification of same by the CA
• Report observations/discrepancies noted by the CA during the course of audit
• Report prescribed information in compliance of various provisions of Income tax Act as referred in Form 3CD.
This form has to be uploaded by a CA using their DSC.

3CD

- 44 main clauses
- Multiple sub-clauses

THE GO TO DOCUMENT

Exposure Draft of Revised Guidance Note on Tax Audit under Section 44AB of the Income-tax Act, 1961

FORM 3CD

- If a particular item of income/expenditure is covered in more than one of the specified clauses in the statement of particulars, care should be taken to make a suitable cross reference to such items at the appropriate places.
- If there is any difference in the opinion of the tax auditor and that of the assessee in respect of any information furnished in Form No. 3CD by the assessee, the tax auditor may consider stating both the view points and also the relevant information related to matter in order to enable the tax authority to take a decision in the matter.
- If any particular clause in Form No.3CD is not applicable, he should state that the same is not applicable.

3CD

- In computing the allowance or disallowance, he should keep in view the law applicable in the relevant year, even though the form of audit report may not have been amended to bring it in conformity with the amended law.
- In case the assessee has furnished prescribed particulars in part or piecemeal or relevant form is incomplete or the assessee does not give the information against all or any of the clauses, the auditor should not withhold the audit report. In such a case, he should qualify his report in para 3 of Form 3CA or para 5 of Form 3CB as applicable

3CD

- The information in Form No. 3CD should be based on the books of accounts, records, documents, information and explanations made available to the tax auditor for his examination.
- In case the auditor relies on a judicial pronouncement, he may mention the fact as his observations in clause (3) of Form No. 3CA or clause (5) provided in Form No. 3CB, as the case may be
- Where in respect of any particular aspect, reporting is required at more than one clause, in that case, information may be furnished at any one of the clause and reference may be given at other clause.

CLAUSES

20. Particulars to be furnished in Form No. 3CD.

PART – A

1.	Name of the assessee	:	_____
2.	Address	:	_____
3.	Permanent Account Number or Aadhaar Number	:	_____
4.	Whether the assessee is liable to pay indirect tax like excise duty, service tax, sales tax, goods and service tax, customs duty, etc. If yes, please furnish the registration number or GST number or any other identification number allotted for the same	:	_____
5.	Status	:	_____
6.	Previous year	:	from _____ to _____
7.	Assessment year	:	_____
8.	Indicate the relevant clause of section 44AB under which the audit has been Conducted		

METHOD OF ACCOUNTING

- Change in method of accounting- Impact
- ICDS – Impact

ICDS

Income Computation & Disclosure Standard ('ICDS')		Corresponding Accounting Standard ('AS')	
I	Accounting policy	1	Disclosure of accounting policy
II	Valuation of Inventories	2	Valuation of inventories
III	Construction contracts	7	Construction contracts
IV	**Revenue recognition**	**9**	**Revenue recognition**
V	**Tangible fixed assets**	**10**	**Property, Plant & equipment**
VI	**The effects of changes in foreign exchange rates**	**11**	**The effects of changes in foreign exchange rates**
VII	Government Grants	12	Accounting for Government Grants
VIII	Securities	13	Accounting for investments
IX	Borrowing Costs	16	Borrowing Costs
X	Provisions, Contingent Liabilities &	29	Provisions, Contingent Liabilities &

ICDS

- In case of conflict between the provisions of the Income Tax Act and ICDS, the Income Tax Act shall prevail.

ICDS I

- Disclosure of Accounting Policies

- Mark-to- market losses not to be allowed unless permitted by other ICDS

ICDS II

- Cost or NRV whichever is lower
- Abnormal wastages not permitted
- Exclusive method of accounting

ICDS III

- Construction Contracts
- POC Method
- Retention Money to be included in contract revenue
- Foreseeable Losses – only when actually incurred

ICDS III

- Commencement of POC Method

- Guidance Note on Real Estate transactions issued by ICAI

REVENUE FROM SALE OF GOODS

- Not too many differences with AS 9
- Major differences with Ind AS 115

IN TAX AUDIT REPORT

ANNEXURE TO FORM NO. 3CD **Annexure 6**

CLAUSE 14(b)

DETAILS OF DEVIATION IN METHOD OF VALUATION PRESCRIBED UNDER SECTION 145A AND EFFECT THEREOF ON THE PROFIT OR LOSS

Sr. No	Particulars	Increase in Profit (Rs.)	Decrease in Profit (Rs.)
1	Increase in cost of opening stock on inventory on inclusion of GST	-	1,086,276
2	Increase in purchase on account of inclusion of GST	-	1,332,041
3	Increase in sales of finished goods on inclusion of GST	27,352,861	-
4	GST paid on sale of finished goods as a result of its inclusion in sales	-	27,352,861
5	Increase in closing stock of raw materials / finished goods on inclusion of GST	2,172,552	-
6	GST credit availed and utilized on raw material consumed in payment of GST on finished goods	245,765	-
	Total	**29,771,178**	**29,771,178**

Note:

The Company is following the exclusive method of accounting for GST in the books of account. The inventory is also valued on that basis. Accordingly, to that extent, there is a deviation from the method specified u/s. 145A. However, as shown above, the net effect thereof on the profit/loss for the year is Nil.

STOCK

26. (a) Method of valuation of closing stock employed in the previous year.

(b) Details of deviation, if any, from the method of valuation prescribed under section 145A, and the effect thereof on the profit or loss, please furnish:

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

[Clause 14 (a) and (b)]

CLAUSE 16

28. 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 16 (a) to (e)]

CLAUSE 17

29. 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	Whether provisions of second proviso to sub-section (1) of section 43CA or fourth proviso to clause (x) of sub-section (2) of section 56 applicable?[Yes/No]

(Clause 17)

CLAUSE 17

- 43CA- Transfer of asset less than the Government value. 110%
- First time residential property < Rs 2 crores between 12/11/20 and 30/6/21

DEPRECIATION

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

(a) Description of asset/block of assets.

(b) Rate of depreciation.

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

(ca) Adjustment made to the written down value under section 115BAC/115BAD (for assessment year 2021-2022 only) .....

(cb) Adjustment made to written down value of Intangible asset due to excluding value of goodwill of a business or profession.....

(cc) Adjusted written down value.

DEPRECIATION

(d) Additions/deductions during the year with dates; in the case of any addition of an asset, date put to use; including adjustments on account of –

(i) Central Value Added Tax credits claimed and allowed under the Central Excise Rules, 1944, in respect of assets acquired on or after 1st March, 1994,

(ii) change in rate of exchange of currency, and

(iii) subsidy or grant or reimbursement, by whatever name called.

(e) Depreciation allowable.

(f) Written down value at the end of the year.

[Clause 18 (a) to (f)]

DEPRECIATION

- Disputes to be reported by way of a Note
- Forex- Clause 46A of AS 11
- Exchange difference to the extent of amount actually paid

INTANGIBLE ASSETS

- Intangible assets being goodwill of a business or profession does not qualify for depreciation from 01.04.2021 i.e. AY 2021-22 (The Finance Act 2021). Goodwill was eligible for depreciation till AY 2020-21. Therefore, if in a block of assets being intangible assets includes goodwill, WDV attributable to intangible asset being goodwill needs to be excluded from the WDV of such a block of assets.

CLAUSE 19

- The assessee can claim deduction under the sections 32AC, 32AD, 33AB, 33ABA, 35, 35ABB, 35AC, 35AD,35CCA, 35CCB, 35CCC, 35CCD, 35D, 35DD, 35DDA and 35E subject to the terms and conditions mentioned in these Sections. Where assessee has opted to pay income-tax under provisions of section 115BA, 115BAA, 115BAB, 115BAC or 115BAD; the assessee is not entitled to claim deductions under certain sections like section 32AD, 33AB, 33ABA etc.

CLAUSE 21

- Personal expenditure debited to Profit or Loss Account being in the nature of Capital, personal, advertisement expenditure etc:
- TDS not deducted
- TDS deducted but deposited late
- 40(A)(3) read with Rule 6DD

CLAUSE 22

- Amount of Interest inadmissible under section 23 of the Micro, Small and Medium Enterprises Development Act, 2006

CLAUSE 23

- Particulars of payments made to persons specified under section 40A(2)(b).
- Section 40A(2) provides power to the Income Tax Officer that in case any expenditure has been incurred and the payment has been made or is to be made to certain specified persons and he is of the opinion that such expenditure is excessive or unreasonable with regard to the fair market value of the goods, services or facilities provided, he may disallow such expense as he considers to be excessive or unreasonable.

CLAUSE 23 -SAMPLE

XYZ PRIVATE LIMITED

ASSESSMENT YEAR: 2019-20

ANNEXURE TO FORM NO. 3CD **Annexure 14**

Clause 23

DETAILS OF PAYMENTS TO PERSONS SPECIFIED U/S 40A(2)(b)

Sr. No.	Name of Related Person	PAN of Related Person	Nature of Relationship	Nature of Transaction	Amount (Rs.)
1	Mr. Chetan Bhagat Tarachand	AAAPT9021A	Director	Remuneration Commission	175,000 500,000
2	Mr. Ketan Nastik Tarachand	AAAPT9022B	Brother of a director	Commission	100,000
3	PQR Holdings LLC	N.A.	Subsidiary company	Purchases of chemicals	7,500,000
4	X Europe PLC	DEFCX1234G	Holding company	Royalty	9,000,000

Auditors' Note:
The identification of the specified persons covered u/s. 40A(2)(b) is made by the assessee on which we have relied.

CLAUSE 26

- 43B
- Year of Payment
- Tax, Duty
- Employer contribution to funds
- Bonus or commission
- Interest or commission
- Leave credit

43B

- Section 2(24)(x) includes within the scope of income any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund or ESI Fund or any other Fund for employees' welfare (hereafter referred to as "Welfare Fund").
- The Finance Act 2021 by Explanation 5 to section 43B has clarified that the provisions of section 43B are not applicable to a sum received by the assessee from any of his employees to which the provisions of section 2(24)(x) applies
- In view of the above explanations, if there is a delay in payment of these sums to the concerned authority after the relevant due date specified under the respective Act, then such sum even though paid at any time beyond the due date will be disallowable permanently.

BONUS

- It may be noted that emoluments in the nature of good work reward, incentives or ex-gratia are not bonus or commission as contemplated under section 36(1)(ii) but are deductible under section 37 of the Act as held by Delhi High Court in Shri Ram Pistons and Rings Ltd 307 ITR 363

CLAUSE 27

- Amount of Central Value Added Tax credits availed of or utilized during the previous year and its treatment in the profit and loss account and treatment of outstanding Central Value Added Tax credits in the accounts.
- Particulars of income or expenditure of prior period credited or debited to the profit and loss account.

CLAUSE 28

- Whether during the previous year the assessee has received any property, being share of a company not being a company in which the public are substantially interested, without consideration or for inadequate consideration as referred to in section 56(2)(viia), if yes, please furnish the details of the same.

CLAUSE 28

- Note: During the previous year, the Company has received Rs. 1 crore for issue of 20,000 equity shares of Rs. 10 each fully paid up at a premium of Rs. 490 per share. The issue price does not exceed the fair market value of the shares referred to in Sec. 56(2)(viib).
- Auditors' Note : The assessee states that the above shares have been issued at fair market value which will be substantiated by it in the course of assessment proceedings as provided in clause (a)(ii) of the Explanation to Sec. 56(2)(viib).

CLAUSE 28

- For alternate situation where shares are issued at a premium and valuation report of a Merchant Banker is relied upon by the Auditor, the following note & auditors' note may be incorporated:
- Note: During the previous year, the Company has received consideration of Rs.5 crores for issue of 50,000 fully paid up equity shares of Rs. 10/- each, issued at a premium of Rs. 990 per share. The fair market value of the shares issued has been determined by M/s Above Board, Merchant Bankers, as contemplated in Rule 11UA of the Rules at Rs. 1,000 per share
- Auditors' Note: We have relied upon the above referred Valuation report of M/s Above Board, Merchant Bankers and accordingly treated the aggregate consideration received as not exceeding the fair market value of the shares issued for the purposes of this clause as contemplated in Sec. 56(2)(viib)."

CLAUSE 30

- Transfer Pricing Primary Adjustment
- Repatriation as per 92CE
- On or before 90 days from date of filing return
- Imputed interest income

CLAUSE 30B

- Section 94B provides that, where an Indian company or a permanent establishment of a foreign company in India, incurs any expenditure by way of interest or of similar nature exceeding Rs. 1 crore which is deductible in computation of income under the head “Profits & Gains of Business or Profession” in respect of a debt issued by a non-resident AE, such interest, to the extent of excess interest, shall not be deductible.

CLAUSE 31

- 269SS receipts
- account payee cheque or account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed (hereinafter referred to as approved banking channels)

269SS

- The CBDT, vide notification no. 8/2020/F. No. 370142/14/2019-TPL dated 29th January 2020, has prescribed the other electronic modes under Rule 6ABBA with effect from 1st September 2019. Under the said Rule the following shall be the other electronic modes for the purposes of Section 269SS:
- Credit Card;
- Debit Card;
- Net Banking;
- IMPS (Immediate Payment Service);
- UPI (Unified Payment Interface);
- RTGS (Real Time Gross Settlement);
- NEFT (National Electronic Funds Transfer), and
- BHIM (Bharat Interface for Money) Aadhar Pay.

CLAUSE 35

- Quantitative Details

CLAUSE 35

CLAUSE 35

QUANTITATIVE DETAILS OF PRINCIPAL ITEMS OF RAW MATERIAL, GOODS TRADED AND FINISHED GOODS

Traded Goods - CLAUSE 35(a)

Sr. No.	Description	Units	Opening Stock	Purchases During the Year	Sales During the Year	Closing Stock	Shortage/Excess, if any
1	Garments	Nos.	3,500	35,000	33,000	5,500	0

Note: For the purpose of the above, only principal items (constituting at least 10% of aggregate sales) are considered

Manufactured Goods - CLAUSE 35(b)
Raw Materials

Sr.	Particulars	Units	Opening Stock	Purchases During the Year	Consumption During the Year	Sales During the Year	Closing Stock	Yield of Finished Products	% of Yield	Shortage/Excess, if any
1	X	MT	8,900	75,700	75,000	5,000	4,600	50,000	66.67	0
2	Y	MT	1,200	14,300	15,000	-	500	Not Ascertainable	Not Ascertainable	
3	Y	MT	1,200	14,300	15,000	-	500	Not Ascertainable	Not Ascertainable	

Notes: a) For the purpose of the above, principal items (constituting at least 10 % of total consumption of raw materials) are considered.

b) Yield of finished goods from consumption of Y is not ascertainable in view of multiple product mix of the finished goods manufactured therefrom.

CLAUSE 41

- Please furnish the details of demand raised or refund issued during the previous year under any tax laws other than Income Tax Act, 1961 and Wealth tax Act, 1957 along with details of relevant proceedings

CLAUSE 42

80. (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:

S. No.	*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 CLAUSE

- > Rs 50000
- Purchase, sale or exchange of goods, property, right or interest in a property.
- Delivering of services.
- Works contract.
- Investment made or expenditure incurred.
- Taking or accepting any loan or deposit.

CONTROVERSIAL CLAUSE 44

S.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 form GST	Relating to the Entities falling under Compositions Scheme	Relating to other Registered Entities	Total Payments to Registered Entities	
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	22355475.00	199660.00	177040.00	19488780.00	19865480.00	2489995.00

CONTROVERSIAL CLAUSE 44

- Data, Data, Data

CONTROVERSIAL CLAUSE 44

- Circular No 06/2018
- Circular No 09/2019
- Circular No 10/2020
- Circular No 05/2021

CLAUSE 44

- A. Total amount of expenditure incurred during the year
- B. Expenditure in respect of entities registered under GST
- C. Expenditure related to entities not registered under GST

CLAUSE 44

- a) Expenditure relating to entities falling under composition scheme
- b) Expenditure relating to goods or services exempt from GST
- c) Expenditure relating to other registered entities
- Total payment to registered entities

CLAUSE 44

- The language used here is total payment to registered entities. A question may arise whether the total payment to the registered entities is to be reported or the total expenditure as booked in the books of account is to be reported here. A harmonized interpretation shall be that in column (6), the total of column (3) (4) and (5) is to be reported and hence, the value of expenditure booked as per books of account shall be reported

CLAUSE 44

- In the table under clause 44, the language used is “expenditure in respect of”. Since, the word used is ‘expenditure’, it is advised that the capital expenditure may also be reported separately as serial no. 2 in the format prescribed.

CLAUSE 44- ISSUES

- Many Assessees do not maintain bifurcation of purchases from registered and unregistered persons. For eg, there may be printing and stationary expenses from registered persons on which ITC is not claimed and there may be purchases from unregistered persons also – in such situation, going itemwise purchases to give bifurcation might be a very cumbersome job.
- We verify that purchases on which ITC is claimed are from registered persons. But if ITC is not claimed on purchases (like building construction etc), then assessee does not maintain whether it is from registered or unregistered.

CLAUSE 44- ISSUES

- Among the purchases from registered persons, very difficult to bifurcate purchases from composition and regular registered persons.
- In case of purchases on which RCM is applicable, how to report? – If reported as unregistered purchases, their system may capture excessive purchases from unregistered persons, thereby selecting cases for scrutiny.

CLAUSE 44- ISSUES

- If bifurcation as expected in Clause 44 is to be given, then lot of training to be given to accountants and even after doing so, the authenticity of data in case of big assesses would be always be difficult.
- Do the figures have to be reconciled?

THANK YOU!

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