Tax Audit Report (Amendment 2014) under section 44AB of Income Tax Act,1961

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An overview of section 44AB of Income Tax Act

Every person-

a) carrying on business shall, if his total sales, turnover or gross receipts, as the case may be, in business exceed or exceeds one crore rupees in any previous year; or

b) carrying on profession shall, if his gross receipts in profession exceeds twenty five lakh rupees in any previous year; or

c) carrying on the business shall, if the profits and gains from the business are deemed to be……

d) carrying on the business shall, if the profits and gains from the business are deemed to be……

get his accounts of such previous year audited by an accountant before the specified date and furnish by that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed:

Provided that this section shall not apply……

An overview of section 44AB of Income Tax Act

- Computation of cut off limit of 100 lakhs/25 lakhs- whether Taxes/Duties includible
- Business v/s Profession
- Turnover in the case of speculative transactions or derivatives
  - Anahaita Nalin Shah ITAT MUMBAI (2014)
- Multiple Businesses / Multiple Units
- Charitable trust engaged in business
- Agricultural income exempt from Tax

Revised Tax Audit Report Form 3CA and Form 3CB

Revised Form 3CA

FORM NO. 3CA
[See rule 6G(1)(a)]
Audit report under section 44AB of the Income - tax Act, 1961, in a case where the accounts of the business or profession of a person have been audited under any other law

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

(a) the audited *profit and loss account / income and expenditure account for the ~~year ended on 31st March~~ period beginning from ---------- to ending on ----------.

(b) the audited balance sheet as at ~~31st March~~, _____; 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 ~~and the *Annexure there to*~~ are true and correct subject to the following observations/qualifications, if any:

a.

b.

c.

Revised Form 3CA

.....

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

Place : _____

Date : _____

Name of the signatory .....

Full address .....

Notes :

1* Delete whichever is not applicable

2. **This report has to be signed by -

~~i. a chartered accountant within the meaning of the chartered accountant Act 1949,~~

~~ii. any person who, in relation to any State, is, by virtue of the provision of sub section(2) of the companies Act 1956 , entitled to be appointed to act as an auditor companies registered in the State~~

~~iii. any person who is, by virtue of any law, entitled to audit the accounts of the assessee for the relevant previous year~~

2 **This report has to be signed by a person eligible to sign the report as per the provisions of section 44AB of the Income Tax Act, 1961.

3 Where any of the requirements in this Form is answered in the negative or with qualification, give reasons therefore.

4. The person who signs this audit report shall indicate reference of his membership number / certificate of practice / authority under which he is entitled to sign this report.

Revised Form 3CB

FORM NO. 3CB

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

Audit report under section 44AB of the Income - tax Act 1961, in the case of a person referred to in clause (b) of sub - rule (1) of rule 6G

1. *I / we have examined the balance sheet as ~~at 31stMarch~~ on _____, and the *profit and loss account / income and expenditure account for the ~~year ended on that date~~, period beginning from _____to ending on_____, attached herewith, of _____(Name), _____(Address), _____(Permanent Account Number).

2. *I / we certify that the balance sheet and the *profit and loss / income and expenditure account are in agreement with the books of account maintained at the head office at _____ and ** _____ branches.

3. (a) *I / we report the following **observations / comments / discrepancies / inconsistencies**; if any:

   (b) Subject to above, -

   (A) *I / we have obtained all the information and explanations which, to the best of *my / our knowledge and belief, were necessary for the purpose of the audit.

   (B) In *my / our opinion, proper books of account have been kept by the head office and branches of the assessee so far as appears from*my / our examination of the books.

Revised Form 3CB

(C) In *my / our opinion and to the best of *my / our information and according to the explanations given to *me / us, the said accounts, read with notes thereon, if any, give a true and fair view :-

i. in the case of the balance sheet, of the state of the affairs of the assessee as at **31st March……** and

ii. in the case of the *profit and loss account / income and expenditure account of the *profit / loss or *surplus / deficit of the assessee **for the year ended on that date.**

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

5 In *my/our opinion and to the best of *my / our information and according to explanations given to *me / us, the particulars given in the said Form No.3 CD ~~and the Annexure thereto~~ are true and correct subject to following observations/qualifications, if any:

a.

b.

c.

Revised Form 3CB

.....

***(~~Signed~~ Signature and stamp/seal of the signatory)

Place : _____

Date : _____

Name of the signatory .....

Full address .....

Notes :

1. *Delete whichever is not applicable.

2. **Mention the total number of branches.

3. ***This report has to be signed by-

   i. ~~A chartered accountant within the meaning of the Chartered Accountant Act 1949,(38 of 1949); or~~

   ii. ~~Any person who, in relation to any state, is, by virtue of the provision of sub section(2) of section 226 of the companies Act 1956 (1 of 1956),entitled to be appointed to act as an auditor companies registered in the State.~~ person eligible to sign the report as per the provisions of section 44AB of the Income Tax Act, 1961.

4. The person, who signs this audit report, shall indicate reference of his membership number / certificate of practice number / authority under which he is entitled to sign this report.

Changes in Form 3CA

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
(a)	The audited profit and loss account / income and expenditure account for the year ended on 31st March,	(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 31st March,…..	(b)	The audited balance sheet as at,…..
3.	In my /our opinion and to the best of my /our information and according to explanations given to me/us, the particulars given in the said Form. 3CD and the *Annexure there to* are true and correct	3.	In my /our opinion and to the best of my /our information and according to examination of book of accounts including other relevant documents and explanations given to me/us , the particulars given in the said Form. 3CD ~~and the Annexure thereto~~ are true and correct subject to the following observations / qualifications, if any: a. b. c.

Changes in Form 3CA

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
	signed		Signature and stamp / Seal of the signatory
	Place……, Name: …. Date ……, Address…..		Place……, Name of the signatory , Date ……, Full Address…..
NOTES	This report has to be signed by- A chartered accountant within the meaning of the chartered accountant Act 1949, Any person who, in relation to any State, is, by virtue of the provision of sub section(2) of the companies Act 1956 , entitled to be appointed to act as an auditor companies registered in the State Any person who is, by virtue of any law, entitled to audit the accounts of the assessee for the relevant previous year		This report has to be signed by a person eligible to sign the report as per section 44AB of income tax Act, 1961.

Changes in Form 3CB

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
	I / we have examined the balance sheet as at 31stMarch … , and the profit and loss account / income and expenditure account for the year ended on that the date, attached herewith ,of …….. (mention name and address of assessee with permanent account number)		I / we have examined the balance sheet as on ……, and the profit and loss account / income and expenditure account for the ~~year~~ period beginning from …, to ending on …., attached herewith ,of …, (Name), … (Address),.. (Permanent Account Number)
3(b)(C)	In my / our opinion and to the best of my / or information and according to explanations given to me /us , the particulars given in the said Form .3CD and the annexure thereto are true and correct		In my / our opinion and to the best of my / or information and according to explanations given to me /us , the particulars given in the said Form .3CD ~~and the Annexure thereto~~ are true and correct, subject to following observations / qualifications , if any : a. b. c.

Changes in Form 3CB

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
	signed		Signature and stamp / seal of the signatory
	Place……, Name: …. Date ……, Address…..		Place……, Name of the signatory Date ……, Full Address…..
Notes	3. This report has to be signed by- i. A chartered accountant within the meaning of the Chartered Accountant Act 1949, ii. Any person who, in relation to any state, is, by virtue of the provision of sub section(2) of the companies Act 1956 , entitled to be appointed to act as an auditor companies registered in the state		3. This report has to be signed by a person eligible to sign the report as per section 44AB of income tax Act, 1961.

Qualifications in Form 3CA and 3CB

Standard matters of qualification in the software utility

- 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.

Qualifications in Form 3CA and 3CB (Contd..)

Standard matters of qualification in the software utility

- Records produced for verification of payments through account payee cheque 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/s 56(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 was not made available.
- Others

Audit Report and Qualifications

- Compliance with Audit Report format SA 700 and SA 705 on qualifications in auditor's report is not possible as per the prescribed format
- 'Qualifications' and 'Observations' used interchangeably in the format
- In Form 3CB, qualifications / emphasis of matter on financial statements referred to as observations/ comments/discrepancies/inconsistencies – though auditor is opining on '**true and fair view**'
- At the end of the Form 3CA and 3CB, auditor to certify the particulars to be given in Form 3CD as ' **true and correct**' – subject to observations/qualifications .
- The well understood distinction between observations/ qualifications/ discrepancies/ inconsistencies ,etc are blurred in the prescribed format
- The conceptual difference between 'true and fair view' and 'true and correct' to be taken into account
- Opinion on "True and Fair View" Auditor to be guided by Accounting Standards and not necessarily by the provisions of Income Tax Act
- Applicability of Accounting Standards of ICAI to Non Corporate Assessee
- Accounting standards prescribed under Income Tax Act.

Changes in Tax Audit Report Form 3CD

Clause wise comparative of Revised Form 3CD

Clause of Revised 3CD	Clause of Pre revised3CD	Clause of Revised 3CD	Clause of Pre revised3CD	Clause of Revised 3CD	Clause of Pre revised 3CD
1	1	16	13	31	24
2	2	17	-	32	25
3	3	18	14	33	26
4	-	19	15	34	27
5	4	20	16	35	28
6	5	21	17	36	29
7	6	22	17A	37	30
8	-	23	18	38	31
9	7	24	19	39	-
10	8	25	20	40	32
11	9	26	21	41	
12	10	27	22		
13	11	28	-		
14	12	29	-		
15	12A	30	23		

Salient Features of Change in Form 3CD

A. Substantive changes

Revised 3CD Clause	Particulars of Reporting
4	Whether assessee liable to pay indirect taxes, if yes, furnish Registration/ identification number allotted
11(b)	List of books of account maintained - separately for each location
11(c)	Apart from list of books of account, also report the nature of relevant documents examined
17	Details of property transferred for a consideration lower than the stamp duty value (Section 50C & 43CA of the Act)
19	Deduction allowable u/s 32AC, 35AD, 35CCC and 35CCD are added to the existing list and reference to "Amount not debited to the Profit and Loss A/c" omitted
24	Deemed Income under section 32AC(2) of the Act
28	Details of shares of a closely held company received by assessee without or for inadequate consideration – section 56(2)(viia)
29	All transactions of issue of shares for consideration in excess of fair market value – section 56(2)(viib)
32(c)	Losses of speculation business as referred to in section 73

Salient Features of Change in Form 3CD (contd..)

A. Substantive changes

Revised 3CD Clause	Particulars of Reporting
32(d)	Losses incurred as referred to in section 73A in respect of specified business mentioned in section 35AD
33	Deduction claimed u/s 10A and 10AA
34(a)	Complete summary of TDS and TCS bifurcated into section wise Base Amount, Tax Deducted / Collected - separately for full rate and concessional rate, Amount of TDS / TCS not deposited with Government, etc.
34(b)	Details of TDS / TCS statements filed / not filed and whether the statements capture all reportable transactions
34(c)	Details of interest payable u/s 201(1A) or 206C(7) for belated payment of TDS / TCS
37, 38 & 39	Reporting on "Disqualification", "Disagreement" on any matter, item, value or quantity by the concerned auditor in respect of cost audit, excise audit and service tax audit
41	Details of demand raised or refund issued under other tax laws along with relevant proceedings

Salient Features of Change in Form 3CD (contd..)

B. Other changes

Revised 3CD Clause	Particulars of Reporting
8	Relevant clause of section 44AB under which audit has been conducted
13(c)	Itemised information of change in the method of accounting and effect thereof on profit or loss in a tabular format
14(b)	Itemised information on deviation from method of valuation prescribed u/s 145A along with effect the effect on the profit or loss
21	Consolidated amount of reporting of the specified expenditure substituted by itemised reporting thereof
35	In the quantitative information the remark "To the extent available" in respect of yield of finished products to the raw materials is omitted
40	• The title "Accounting Ratios" changed to "Details of Turnover, Gross Profits, etc" • Information to be furnished also for the corresponding preceding year • Details to be furnished for principal items of goods traded, manufactured or services rendered

Certification of prescribed particulars in Form No. 3CD

General Issues

- Information to be compiled and authenticated by the assessee - Auditor's duty to check the details, applying the auditing standards and techniques.
- In the case of conflicting Judicial precedents, Auditor should state the Judgment relied upon.
- In the case of conflicting views with the assessee, the Auditor may state both the views and leave it to the Tax Department to decide the matter.
- The Auditor will be primarily guided by the Income Tax Act while reporting the particulars in Form 3CD unless the matter involves purely accounting aspects such as Accounting Ratios.

Certification of prescribed particulars in Form No. 3CD

Test Check of Data: Extract from ICAI GN on tax audit (2013 edition) (Para 11.6)

"While test checks may suffice in the conduct of a statutory audit for the expression of the auditor's opinion as to whether the accounts depict a 'true and fair' view, the tax auditor may be required to apply ***reasonable tests*** *on the total information to be prepared by the assessee in respect of certain items in the prescribed form, e.g., in verification of payments for purchases/expenses exceeding Rs.20,000/- in cash. While the entity may have to prepare the details for the entire year,* ***the tax auditor may have to ensure that no items have been omitted in the information furnished and a reasonable test check would reveal whether or not the information furnished is correct.*** *The extent of check undertaken would have to be indicated by the tax auditor in his working papers and audit notes. The tax auditor would be well advised to so design his tax audit programme as would reveal the extent of checking and to ensure adequate documentation in support of the information being certified."*

Certification of prescribed particulars in Form No. 3CD

Clause 1 to 3

1. Name of the assessee
   - In case of change after the end of the financial year
   - Intimation to the tax department – if not done ?
   - Change in the PAN information
   - In case of branch audit
2. Address
   - On record of the tax department at the time of signing report?
   - Change not intimated to tax department?
   - Jurisdictional address vs. registered office address in case of corporates
3. Permanent Account Number
   - Change in status due to conversion

Normally all the particulars in Form 3CD should be reported with reference to the position during the financial year. But the above clauses would require the tax auditor to take cognizance of the position on the date of signing of the report.

Changes in Form 3CD – Part A

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
	Clause was not there	4	Whether the assessee is liable to pay indirect tax like excise duty, service tax, sales tax, customs duty, etc , if yes , please furnish the registration number or any other identification number allotted for the same
5	Previous year ended ……	6	Previous year from …. to …
	Clause was not there	8	Indicate the relevant clause of section 44AB under which the audit has been conducted

Certification of prescribed particulars in Form No. 3CD

Clause 4 - (New Clause)

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

- Scope of the reporting
- Meaning of 'liable'
- 'Whether' v/s 'Where'
- Identification number allotted but assessee not liable
- SA 580 – Written Representations
- Indirect tax is not defined
  - Octroi, Entry Tax, LBT, Luxury Tax etc may be the instances ?
- Fees are not tax, either direct or indirect
- Cess is a tax – may be direct or indirect

Certification of prescribed particulars in Form No. 3CD

Clause 5 (Status of the assessee)

- As per ICAI-Guidance Note 2013 edition, status to be mentioned in the context of definition of person u/s 2(31) of the Act.
- Residential status need not be mentioned
- Status of Joint Venture projects
  - AOP
  - Auditor's Duty.
- Status of Permanent Establishment of a Non-Resident.

Certification of prescribed particulars in Form No. 3CD

Clause 6 (Previous Year)

- *As per Section 3 of the ITA, Previous Year is defined to mean,*

  "previous year" means the financial year immediately preceding the assessment year Provided that, in the case of a business or profession newly set up, or a source of income newly coming into existence, in the said financial year, the previous year shall be the period beginning with the date of setting up of the business or profession or, as the case may be, the date on which the source of income newly comes into existence and ending with the said financial year

Objective of the reworded reporting period

- Newly set up business - Western India Vegetable Products Ltd - 26 ITR 151 [Bom]
- New source v/s new business
- Legal issues in deciding the cut off
- Implication of disallowance of pre commencement expenditure
- PY for different types of business restructuring like amalgamation, liquidation, takeover of business
- Terminal point has to be 31 March only?

Certification of prescribed particulars in Form No. 3CD

Clause 7

Assessment Year to be reported

Clause 8 (New Clause)

Indicate the relevant clause of section 44AB under which the audit has been conducted

- Auditor has to report the clause of the section under which the Audit is been conducted. e.g., business, profession or presumptive tax related provisions
- Assessee may fall into more than one clause ?

Clause 9

- Names of members/partners in case of AOP/ partnership firm
- Change in profit sharing ratio- whether change in terms & conditions of remuneration to be reported?

Clause 10

- Nature of business or profession
- Change in the nature of business or profession
  - Change in source of business income is not the change of business
  - Software utility is inconsistent with legal concept of same business

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
9(b)	Books of accounts maintained (In case books of account are maintained in a computer system, mention books of accounts generated by such computer system)	11(b)	List the books of accounts maintained and the address at which the books of accounts are kept. (In case books of account are maintained in a in computer system, mention the books of accounts generated by such computer system. If the books of accounts are not kept at one location, please furnish the addresses of locations along with the details of books of accounts maintained at each location)
9(c)	List the books of accounts examined	11(c)	List the books of accounts and nature of relevant documents examined
10	Whether the profit and loss account includes any profit and gains assessable on presumptive basis, if yes, indicate the amount and the relevant sections (44AD,44AE,44AF,44B,44BBA,44BB,44BBB, or any other relevant section)	12	Whether the profit and loss account includes any profit and gains assessable on presumptive basis , if yes, indicate the amount and the relevant section (44AD,44AE,44AF,44B,44BBA,44BB,44BBB, Chapter-XII-G, first schedule or any other relevant section)

Certification of prescribed particulars in Form No. 3CD

Clause 11(a)

- Whether books of accounts are prescribed u/s 44AA, if yes, list the books so prescribed

Clause 11(b)

List the books of accounts maintained and the address at which the books of accounts are kept.

(In case books of account are maintained in a in computer system, mention the books of accounts generated by such computer system. If the books of accounts are not kept at one location, please furnish the addresses of locations along with the details of books of accounts maintained at each location)

Clause 11(c)

List the books of accounts and nature of relevant documents examined

Certification of prescribed particulars in Form No. 3CD

Clause 12

- Whether the profit and loss account includes any profits and gains assessable on presumptive basis, if yes, indicate the amount and the relevant sections (44AD, 44AE, 44B, 44BB, 44BBA, 44BBB, Chapter-XII-G (Income of Shipping company, first schedule (Insurance business)any other relevant section.)

- Profits of Presumptive business as per books of account –
  - Need not be profits computed under IT Act.

- Multiple business
  - Separate books not maintained
  - Audit Reporting

Presumptive basis of Taxation – Tax Audit Applicability

Sec.	Nature of Business Taxable on gross / Presumptive basis	Assessee	Deviation from prescribed profit allowed ?	Lower Profits 44AB applies?	Exemption from section 44AB		T/Over exclusion for limit u/s 44AB
					Under principal section	Under 44AB	
44AD	Any Business except hiring, plying or leasing goods carriages	Residents , Individual, HUF, Partnership excluding LLP)	Yes	Yes	NA	NA	NA
44AE	Business of plying, hiring, or leasing goods carriages	Any Assessee	Yes	Yes	Yes	No	Yes
44B	Business of operation of ships	Non residents	NO	No	No	Yes	NA
44BB	Business of providing services or facilities in connection with or supplying plant and machinery on hire used or to be used in prospecting, extraction or production of mineral oils	Non Residents	Yes	Yes	No	No	NA

Presumptive basis of Taxation – Tax Audit Applicability

Sec.	Nature of Business Taxable on gross / Presumptive basis	Assessee	Deviation from prescribed profit allowed ?	Lower Profits 44AB applies?	Exemption from Tax Audit		T/Over exclusion for limit u/s 44AB
					Under principal section	Under 44AB	
44BBA	Business of operation of aircraft	Non Residents	No	No	No	Yes	NA
44BBB	business of civil construction or the business of erection of plant or machinery or testing or commissioning thereof, in connection with a turnkey power project approved by the Central Government in this behalf	Foreign Company	Yes	Yes	No	No	NA
115A	Royalty or Fees for Technical Services	Non Residents	No	-	-	No	No

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
11(c)	Whether change in accounting policy , give details of such change and effect thereof on the profit and loss account	13(c)	Whether change in accounting policy, give full details and effect thereof on the profit and loss account . The following details are to be furnished : • Serial Number • Particulars • Increase in profit • Decrease in profit
12(b)	Details of deviation , if any , from the method of valuation prescribed under section 145A , and the effect thereof on profit or loss	14(b)	In case of deviation from the method of valuation prescribed under section 145A, and the effect thereof on the profit or loss, please furnish: • Serial Number • Particulars • Increase in profit • Decrease in profit

Certification of prescribed particulars in Form No. 3CD

Clause 13

- Method of accounting.
- Change in accounting policy is not necessarily change in method of accounting.
- Incase of such change details to be furnished along with quantitative impact of P/L A/c
- Deviation from accounting standards prescribed u/s 145

Clause 14

- Deviation from method u/s 145A
  - Scope of section 145A
  - Section 145A adjustments are neutral to profits
  - Reconciliation statement pursuant to section 145A
  - Report increase & decrease in profit
  - Only descriptive note of tax neutrality not permitted

Certification of prescribed particulars in Form No. 3CD

Clause 14 (Cont …)

Implication under section 43B

- Judicial view that excise duty is incurred on removal of goods
  - Parry confectionary [299 ITR 321]
  - D&H Secheron electrodes [173 Taxman 188]
  - Loknete Balasaheb Desai S.S.K. Ltd. [Bom HC]

- Judicial precedents on Section 145A
  - Hawkins cookers [14 DTR 206] (Mumbai ITAT)
  - Indo Nippon co. Ltd [261 ITR 275] (Bombay HC)

Inventory – Exclusive and Inclusive method – Tax Neutral

Exclusive Method of inventory valuation							
RM Consumed							
Opening stock	10	10	100	FG Stock	30	15	450
Purchase of RM	90	10	900	ED on FG Stock	30	2	60
Closing Stock of RM	40	10	(400)	Closing stock of FG	30	17	510
Raw material consumed	**60**	**10**	**600**				
Manufacturing cost	60	5	300				
Provision for ED on FG	30	2	60				
Net profit			120				
			1,230				**1,230**
Inclusive Method of inventory valuation							
	Qty	Rate	Amount		Qty	Rate	Amount
Opening stock of FG	10	17	170	Sale of FG	40	20	800
RM Consumed				Closing stock of FG	30	17	510
Opening stock	10	11	110				
Purchase of RM	90	11	990				
Closing Stock of RM	40	11	(440)				
Cenvat on RM consumed	60	1	(60)				
Raw material consumed	**60**		**600**				
Manufacturing cost	60	5	300				
Excise on FG (40 + 30 -10)	60	2	120				
Net profit			120				
			1,310				**1,310**
Assumptions							
(1) Input out put ratio is 1:1 (2) Cenvat on RM Re.1 (3) Excise on FG Rs. 2 (4) No VAT on RM and FG							

Inventory – Exclusive and Inclusive method – Tax Neutral Selected ledger accounts

Exclusive Method of inventory valuation

Cenvat Receivable a/c

Opening balance	10	1	10	Trf to ED Payable	60	1	60
On Purchases of RM	90	1	90	Closing balance	40	1	40
			100				**100**

Excise Duty Payable a/c

ED on opening stock	10	2	20	ED on sale of FG	40	2	80
Trf from Cenvat receivable	60	1	60	ED on closing stock	30	2	60
Bank Payment			60				
			140				**140**

Inclusive Method of inventory valuation

Cenvat credit a/c

Profit and loss a\c	60	1	60	Excise Duty Exp a/c	60	1	60
			60				**60**

Excise Duty Expenses a/c

Cenvat credit a\c	60	1	60	Profit and loss a\c			120
Cash/bank	60	1	60				
			120				**120**

Inventory – Exclusive and Inclusive method – Tax Neutral Tax Audit reporting

Particulars	Net Amount	145A Adjst	Gross Amount	Particulars	Net amount	145A Adjst	Gross Amount
Opening stock of FG	150	20	170	Sale of FG	720	80	800
RM Consumed							
Opening stock	100	10	110	FG Stock	450		450
Purchase of RM	900	90	990	ED on FG Stock	60		60
Closing Stock of RM	(400)	(40)	(440)	Closing stock of FG	510		510
Raw material consumed	**600**		**660**				
Compensatory Adj for RM Cenvat		(60)	(60)				
Manufacturing cost	300		300				
Provision for ED on FG	60		60				
Compensatory Adj for ED on sale of FG (80 - 20)		60	60				
Net profit	120		120				
	1,230		**1,310**		**1,230**		**1,310**

Certification of prescribed particulars in Form No. 3CD

Clause 15

- Details of capital asset converted into stock-in-trade

Clause 16

- Amounts not credited to the P&L account being-
  - Scope restricted to books of account
  - Items falling within the scope of section 28 [13(a)]
  - Any item of income [13(d)]
    - Non Corporate assessee - amounts credited to capital account
    - Interest on income tax refunds
  - Capital receipt, if any, [13(e)]

- Tax credits, drawbacks, refund of duty of customs and excise etc. not credited to P/L
  - Should have been admitted by the authority

- Escalation claims accepted during the year

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
	Clause was not there	17	Whether 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 , furnish as below : • Details of property • Consideration received or accrued • Value adopted or assessed or assessable
14(d)(i)	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) Modified Value Added credits claimed and allowed under the Central Excise Rules, 1944, in respect of assets required on after or after 1 March 1994	18(d)(i)	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 credits claimed and allowed under the Central Excise Rules, 1944, in respect of assets required on after or after 1 March 1994

Certification of prescribed particulars in Form No. 3CD

Clause 17

Whether 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 , furnish as below :

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

- Meaning of transfer for section 50C vs section 43CA
- Transfer of development rights
- Impact of non registration
- Transfers 'during the previous year' to be reported
  - Registration after end of the financial year
  - Transfer not liable for registration
  - Appeal pending before adjudicating authority

Certification of prescribed particulars in Form No. 3CD

Clause 18

- Assets broadly classified as
  - Building
  - Machinery
  - Plant
  - Furniture and fixtures
  - Intangibles
- Asset to be held by the assessee (partly/wholly) for business purpose
- Asset - if acquired during the previous year + put to use for < 180 days then depreciation = 50% of the amount calculated at present rate

Certification of prescribed particulars in Form No. 3CD

Clause 18 (continued…)

- If the asset is acquired as a result of succession/ amalgamation/ demerger then depreciation to be divided between the transferor and the transferee in the ratio of no of days the asset is used by the respective assessees.
- Lease right of a building (which is used for business purpose) held by the assessee – any capital expenditure incurred by the assessee on such building – allowed for the purpose of depreciation
- New plant/Machinery acquired + installed after 31.3.05 – used for the manufacturing or production of articles/things – an enhanced depreciation of 20% on actual cost allowed as depreciation in the year of purchase – one time
- Admissibility of depreciation for new assets acquired during the second half of the Financial Year – Software utility does not permit ?

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
15	Amounts admissible under the sections: a) 33AB b) 33ABA c) 33AC (wherever applicable) d) 35 e) 35ABB f) 35AC g) 35CCA h) 35CCB i) 35D j) 35DD k) 35DDA l) 35E	19	Amounts admissible under sections a) 32AC b) 33AB c) 33ABA ~~d) 33AC (wherever applicable)~~ e) 35(1)(i) f) 35(1)(ii) g) 35(1)(iia) h) 35(1)(iii) i) 35(1)(iv) j) 35 (2AA) k) 35 (2AB) l) 35ABB m) 35AC n) 35AD o) 35CCA p) 35CCB q) 35CCC r) 35CCD

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
	i) Debited to the profit and loss account (showing the amount debited and deduction allowable under each section separately). ii) Not debited to the profit and loss account		s) 35D t) 35DD u)35DDA v)35E Amounts admissible and debited to profit and loss accounts in tabular format • Serial Number • Amount debited to profit and loss accounts • Amounts admissible as per provisions of the ITA, and fulfils the conditions , if any specified under the relevant provisions of ITA 1961, or IT Rules, 1962 or any other guidelines, circular, etc issued in the behalf ~~• Not debited to the profit and loss account~~

Certification of prescribed particulars in Form No. 3CD

Clause 19

- To report amounts admissible u/s sections 33AB 33ABA 35ABB 35AC 35CCA 35CCB & additionally 35 (1)(i) to 35(1)(iv), 35(2AA) & 35(2AB) 32AC, 35AD, 35CCC and 35CCD

- Corresponding amount debited to Profit and Loss Account also to be mentioned

- Amounts not debited to Profit and Loss Account not be reported unlike old report requirement - any implication of the change ?

Clause 19

Section	Content	Amount Admissible as deduction
32AC	Business of growing/ mfg tea/ coffee/rubber	Amount deposited in approved bank or 40% of the profits of such business whichever is lower
33AB	Business of growing/ mfg tea/ coffee/rubber	Amount deposited in approved bank or 40% of the profits of such business whichever is lower
33ABA	Site restoration fund	Amount deposited in approved bank or 20% of the profits of such business whichever is lower
35(1)(i)	Expenditure on scientific research related to business (not capital in nature)	Whole amount
35(1)(ii)	Amount paid to approved research institution, university or college to be used for scientific research	175% of the amount paid

Clause 19

Section	Content	Amount Admissible as deduction
35(1)(ii)(a)	Amount paid to a company registered in India approved by prescribed authority having its main object being scientific research and development and fulfilling other prescribed conditions	125% of the amount paid
35(1)(iii)	Amount paid to a company engaged in the business of scientific research in social science and scientific research	125% of the amount paid
35 (1)(iv)	Expenditure on scientific research for business purpose	Whole of the capital exp (excluding land)
35(2AA)	Sum paid to National Laboratory, IIT, University or specified person for the purpose of scientific research undertaken under an approved programme	175% of the amount paid
35(2AB)	Expenditure on inhouse research and development by a company engaged in the business of bio technology or in any business of manufacture or production of any article except those specified in 11th Schedule subject to certain conditions	200% of the expenditure

Clause 19

Section	Content	Amount Admissible as deduction
35 ABB	Capital expenditure for operating licence to operate telecommunication services	Deduction in equal installments spread over the life of the licence
35AC	Payment to a public sector company/ local authority/ association/ institution approved by National Committee for eligible project or scheme	Whole of the expenditure
35AD	Capital expenditure incurred by the assessee engaged in specified businesses	100-150% of the capital expenditure as the case may be
35CCA	Expenditure by way of payment to associations or institutions for carrying out rural development programme	Whole of the amount so contributed
35CCB	Expenditure by way of payment to associations and institutions for carrying out programmes of conservations of natural resources subject to certain conditions	100% of the expenditure

Clause 19

Section	Content	Amount Admissible as deduction
35CCC	Expenditure on notified agricultural extension project	150% of the expenditure
35CCD	Expenditure on any notified skill development project subject to certain conditions	150% of such expenditure
35D	Amortisation of certain preliminary expenses incurred by an Indian Co. or any resident person	1/5 of the expense
35DD	Amortisation of expenditure in case of amalgamation or demerger (applicable to Indian Company)	1/5th of the amount incurred
35DDA	Payment to an employee under VRS	1/5th of the amount so paid
35E	Indian company or a person who is resident of India engaged in the business of prospecting etc. of certain minerals	1/10th of the amount of expenditure so incurred

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
16(b)	Any sum received from employees towards contribution to any provident fund or superannuation fund or any other and due date for payment and actual date of payment to the concern authorities under section 36(1)(va)	20(b)	Details of fund received from employees for various funds as referred to in section 36(1)(va) • 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

Clause 20

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

- Bifurcation of amount received towards contribution to any provident fund or superannuation fund or any other fund referred to in Section 36(1)(va)
- Actual amount paid to concerned authorities to be reported

Changes in Form 3CD – Part B

<table>
<tr><th colspan="2">Pre Amendment</th><th colspan="2">Post Amendment</th></tr>
<tr><th>Clause No</th><th>Particulars</th><th>Clause No</th><th>Particulars</th></tr>
<tr><td>17</td><td>Amounts debited to profit and loss accounts show as
a. Expenditure to capital nature
b. Expenditure to personal nature
c. Expenditure on advertisement in any souvenir, brochure, tract, pamphlet or like , published by a political party;
d. Expenditure incurred at clubs,
i. As entrance fees and subscriptions;
ii. As cost from 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
ii. Any other penalty or fine;
iii. Expenditure incurred for any purpose which is an offence or which is prohibited by law</td><td>21(a)</td><td>Please furnish the details of amounts debited the profit and loss account, being in the nature of capital, personal, advertisement expenditure, etc
<table>
<tr><th>Name</th><th>S.No</th><th>Part.</th><th>Amt</th></tr>
<tr><td>Capital expenditure *</td><td></td><td></td><td></td></tr>
<tr><td>Personal expenditure *</td><td></td><td></td><td></td></tr>
<tr><td>Advertisement expenditure in any souvenir, brochure, tract, pamphlet or like published by a political party *</td><td></td><td></td><td></td></tr>
<tr><td>Expenditure incurred at clubs being cost for club services and facilities used</td><td></td><td></td><td></td></tr>
<tr><td>Expenditure by way of penalty, fine for violation of any law for the time being in force</td><td></td><td></td><td></td></tr>
<tr><td>Expenditure by way of any other penalty or fine not covered above</td><td></td><td></td><td></td></tr>
<tr><td>Expenditure incurred for any purpose which is an offence or which is prohibited by law</td><td></td><td></td><td></td></tr>
</table>
* Inconsistency between notification and software utility</td></tr>
</table>

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
17(f)	Amounts inadmissible u/s 40(a)	21(b)	Amounts inadmissible u/s 40(a): i)As payment to non-resident referred to in sub clause (i) (A)Details of payment on which tax is not deducted: 1. Date of payment 2. Amount of payment 3. Nature of payment 4. Name and address of the payee (B)Details of payments on which tax has been deducted but has not been paid during the PY or in the subsequent year before the expiry of time prescribed under section 200(1): 1. Date of payment 2. Amount of payment 3. Nature of payment 4. Name and address of the payee 5. Amount of tax deducted

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
17(f)	Amounts inadmissible u/s 40(a)		(ii) as payment referred to in sub-clause (ia) (A) Details of payment on which tax is not deducted: 1. Date of payment 2. Amount of payment 3. Nature of payment 4. Name and address of the payee (B) has been deducted but has not been paid on or before the due date specified in section 139(1): 1. Date of payment 2. Amount of payment 3. Nature of payment 4. Name and address of the payer 5. Amount of tax deducted 6. Amount out of (5) above deposited if any

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
17(f)	Amounts inadmissible u/s 40(a)		(iii)Under sub clause (ic), wherever applicable (iv)Under sub clause (iia) (v) Under sub clause (iib) (vi)Under sub clause (iii) A. Date of payment B. Amount of payment C. Name and address of the payee (vii) Under sub clause (iv) (viii)Under sub clause (v)

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
17(g)	Interest ,salary bonus ,commission or remuneration inadmissible under section 40(b)/40(ba) and computation thereof;	21(c)	Amounts debited to profit and loss account being, interest ,salary, bonus, commission or remuneration inadmissible u/s 40(b)/40(ba) and computation thereof, Etc
17(h)	Whether a certificate has been obtained from the assessee regarding payments relating to any expenditure covered u/s 40A(3) that the payments were made by Account payee cheque drawn on bank or account payee bank draft as the case may be		Omitted

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
		21(d)	A. On the basis of the examination of books of accounts and other relevant documents/evidence , whether the expenditure covered under section 40A(3) read with rule 6DD were made by account payee cheque drawn on a bank or account payee bank draft. If not, please furnish the details: 1. Serial Number 2. Date of Payment 3. Nature of Payment 4. Amount 5. Name and PAN of the payee, if available

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
	Clause was not there	21(d)	B. On the basis of the examination of books of accounts and other relevant documents/evidence , whether the payment referred to in section 40(A)(3A) read with rule 6DD were made by account payee cheque drawn on a bank or account payee bank draft. If not, please furnish the details of amount deemed to be Profits and gains of business and profession u/s 40(A)(3A) : 1. Serial Number 2. Date of Payment 3. Nature of Payment 4. Amount 5. Name and PAN of the payee, if available

Certification of prescribed particulars in Form No. 3CD

Clause 21(a)

Amounts debited to P&L account being

- Expenditure of capital nature
  - Resolve with statutory Audit
  - Software – ERP – Recent HC ruling on Raychem RPG Ltd. [ITA No. 4176 of 2009]
  - Impact of AS – 11
  - Is True & Fair view affected?
- Expenditure of personal nature
  - Corporate assessee will not have personal expenses

  (Refer Lake Palace Hotels & Motels Pvt. Ltd - 13 TTJ (JP) 216)
- Expenditure on advertisement published by a political party
- Expenditure incurred at club for entrance fees and for services and facilities used
- Expenditure by way of penalty or fine for violation of any law
- Expenditure by way of any other penalty or fine not covered above
- Expenditure for any offence or act prohibited by law

Certification of prescribed particulars in Form No. 3CD

Clause 21 (b)

Amounts inadmissible under section 40(a)

- Reporting requirement bifurcated into all the clauses and sub clauses of Section 40(a) separately
- Separate reporting for disallowance on account of TDS default for payment to residents and non residents
- A new category of reporting where tax is not deducted
  - Will this cover reporting on the transactions where tax is borne by payer?
- A separate reporting for tax deducted but not paid
- Apart from reporting disallowance of expenses, detailed information to be submitted as to nature and amount of payment along with name and address of the payee
- Whether pro-rata deduction for expenses permissible in case of short payments

Clause 21(c)

- Interest, salary, commission, bonus or remuneration to partners/ AOP/ BOI inadmissible under the Act

Certification of prescribed particulars in Form No. 3CD

Clause 21(d)

- Expenses paid otherwise than by account payee cheque above Rs. 20,000/- (Section 40A(3)) and Section 40A(3A))
  - Multiple payments on the same day – hit
  - Multiple payment on different days – not hit
  - Limit in case of payment made for plying, hiring or leasing goods carriages is Rs. 35,000/-
  - The new format requires itemized reporting of the covered items along with the details of date, nature payment and particulars of the payee
  - Additionally, now the reporting requires disallowance under Section 40A(3A) ie. expenditure incurred in earlier years but paid during the current year otherwise than by permitted mode

Certification of prescribed particulars in Form No. 3CD

Clause 21(e)

- Provision for gratuity disallowable under Section 40A(7)

Clause 21 (f)

- Amount paid as employer for the formation or as contribution to any fund, trust, company, AOP etc. – Section 40A(9)

Clause 21 (g)

- Particulars of liability of contingent nature
  - Rotork Controls India (P)Ltd. [SC]

Clause 21 (i)

- Interest on amount borrowed for acquisition of capital asset – Section 36(1)(iii)

Certification of prescribed particulars in Form No. 3CD

Clause 21(h)

Amount of deduction inadmissible in terms of section 14A

In the Bombay HC ruling in Godrej & Boyce

- With insertion of Sec 14A the apportionment of expenditure attributable to earning of exempt income is necessary
- Primarily, the assessee has to furnish the details of disallowance
- If the disallowance computed by the assessee is not satisfactory in the opinion of the AO, or when the assessee claims that no expenditure has been incurred in relation to exempt income, then he may proceed with disallowance of expenses
- The AO must arrive at satisfaction in an objective manner having regard to the accounts of the assessee
- Once AO has reached satisfaction that the disallowance is warranted, he must compute the same as per Rule 8D

Certification of prescribed particulars in Form No. 3CD

Amount of deduction inadmissible in terms of section 14A –

Bombay HC ruling in Godrej & Boyce …..contd

- Rule 8D is not arbitrary such that it should be struck down by the court as unconstitutional
- Rule 8D is prospective w.e.f date of its notification 24 March 2008
- So far as attribution of borrowing cost to the investments yielding tax free income is concerned, it is not sufficient to prove that assessee's capital and reserves are more than the value of investments. It must be demonstrated that there were actually free funds available with the assessee to establish that the investments were out of own funds. The existence of reserves cannot be equated with availability of free funds

Certification of prescribed particulars in Form No. 3CD

Amount of deduction inadmissible in terms of section 14A (Cont …)

Bombay HC ruling in Godrej & Boyce …..contd

- For the periods prior to notification of Rule 8D, the AO shall apply any reasonable method to compute the disallowance
- There is no merit in the argument that having paid dividend distribution tax the dividend income ceases to be characterized as tax free income
- Dividend distribution tax is not a tax on dividend but an additional tax on company's profit quantified with reference to the amount of dividend paid

What is auditor's role in reporting ?

- When assessee adopts Rule 8D
- When assessee computes disallowance with other method
- When he claims that no expenditure has been incurred

Certification of prescribed particulars in Form No. 3CD

Amount of deduction inadmissible in terms of section 14A (Cont …)

No disallowance under 14A if no tax free income earned ?

- Delite Enterprises [ITA No. 110 of 2009 (Bombay HC)]
- Avshesh Mercantile [ITA No.5779/Mum/2006 & ITA No.208/Mum/2009 (Mumbai Tribunal)]
- REI Agro [144 ITD 141 (Kolkata Tribunal)]
- Cheminvest [121 ITD 318 (Delhi Special Bench)]
- CBDT circular 05/2014 dt. 11/2/2014
- Shivam Motors [ITA no 88 of 2014(Allahabad HC)]
- Cortech Energy [ITA 239 of 2014(Gujarat HC)]
- M Baskaran [ITA 1717/MDS/2013 (Chennai Tribunal)]

No disallowance of admin expense under 14A for investment in subsidiary ?

- JM financial (ITA/4521/Mum/2012)
- EIH Associated Hotels [ITA 1503/MDS/2012 (Chennai Tribunal)]

Certification of prescribed particulars in Form No. 3CD

Clause 22

- Interest inadmissible under section 23 of MSME Act, 2006
- Report issued in form 3CB – prescribed information to be included
- ICAI guidance may be referred to
- If no provision made for interest, there could be no disallowance. However it may affect true and fair view of accounts, in which case suitable qualification may be required

Clause 23

- Payment to related parties
  - Auditor not to express opinions on reasonableness

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
19	Amounts deemed to be profit and gains under section 33AB or 33ABA or 33AC	24	Amounts deemed to be profit and gains under section 32AC or 33AB or 33ABA or 33AC

Clause 24

- Deemed profits in the business u/s 32AC, 33AB or 33ABA or 33AC
  - Sec 32 AC – Transfer of plant and machinery within lock in period
  - Sec 33AB – Withdrawal of deposit in a business of manufacturing of tea/coffee/rubber
  - Sec 33 ABA – Withdrawal from site restoration fund account
  - Sec 33AC – Reserve utilized for non permitted purposed in a shipping business

Certification of prescribed particulars in Form No. 3CD

Clause 25

Amount Chargeable to tax u/s 41

- Carried forward stagnant liabilities ?

  Bhogilal Ramjibhai Atra [43 taxmann.com 55 (Gujarat HC)]

- Is Auditor responsible for reporting stagnant liabilities?

Clause 26

Details of expenditure allowed on actual payment only under section 43B

Clause 27(a)

CENVAT credit availed of/ utilized and treatment of outstanding CENVAT.

Clause 27(b)

Income or Expenses of prior period – Materiality aspect

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
	Clause was not there	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 , furnish the details of the same

Clause 28

- Assessee must refer to firm or closely held company
  - No reporting by other assessees?
  - Definition of company in which public are substantially interested (Section 2(18))
  - Difference between "received" and "transfer"
  - Received during the previous year
  - May not be reflected in the books of account for the period under audit – more particularly in the case of received without consideration
- Valuation Rules - Rule 11U r.w. Rule 11UA(1)(c)
- Report of merchant banker or accountant – rely upon expert
- Can valuer accountant and tax auditor be the same person? Conflict of interest?

Changes in Form 3CD – Part B

Clause 28 (section 56(2)(viia)

- Valuation Rules - Rule 11U r.w. Rule 11UA(1)(c)
- Report of merchant banker or accountant – rely upon expert
- Can valuer accountant and tax auditor be the same person?

  Conflict of interest?
- Issue of right shares
- Issue of bonus shares
- Issue of bonus shares only to a select class of shareholders
- In any case, is company recipient of income ?

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
	Clause was not there	29	Whether during previous year the assessee received any consideration for issue of shares which exceeds the fair market value of the shares as referred to in Section 56(2)(viib) , if yes , furnish the details of the same

Clause 29

- Definition of company in which public are substantially interested (Section 2(18))
- Applies in the case of issue of shares to a resident
  - Trigger point - share application or share allotment?
  - Auditor's role when explanation (a) (ii) is invoked

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
24(c)	Whether a certificate has been obtained from the assessee regarding taking the accepting loan or deposit, or repayment of the same through an account payee cheque or an account payee bank draft		Omitted
	Similar clause was incorporated as part of corresponding clause 24(a) & (b) that dealt with acceptance or repayment of loans and deposits covered by Section 269SS /269 T – without specific reference to the examination of books of account / relevant documents	31(c)	Independent Clause Whether the taking or accepting loan or deposit, or repayment of the same were made by account payee cheque drawn on a bank or account payee bank draft based on the examination of books of account and other relevant documents

Certification of prescribed particulars in Form No. 3CD

Clause 31(c)

- Whether the taking or accepting loan or deposit, or repayment of the same were made by account payee cheque drawn on a bank or account payee bank draft based on the examination of books of account and other relevant documents
  - Omission of certification clause and modification highlighted indicates intention of escalated responsibility on tax auditor
  - The clause 31(c) must be read in the context of clause 31(a) & (b)
  - Acceptance/payment by electronic fund transfer system
- As per guidance note on tax audit under section 44AB of the income tax act, 1961 "Loans and deposits taken or accepted by means of transfer entries constitute acceptance of deposits or loans otherwise than by account payee cheques. Hence such entries have to be reported under this clause. The entries that relate to transactions with a supplier and customer will not be treated as loans and deposits accepted."
- However Allahabad High Court in the case of Chaube Overseas Corporation [303 ITR 9] held that even trade advances are within the scope of this Section

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
	Clause was not there	32(c)	Whether the assesee has incurred any speculation loss referred to in Section 73 during previous year , if yes furnish the same
	Clause was not there	32(d)	Whether the assesee has incurred any loss referred to in section 73A in respect of any specified business during previous year , if yes furnish the same
	Clause was not there	32(e)	In case of company , please state that whether the company is deemed to be carrying on a speculation business as referred in explanation to section 73 , if yes , furnish the details of speculation loss if any incurred during the previous year

Certification of prescribed particulars in Form No. 3CD

Clause 32(a)

Details of b/f loss or depreciation (To the extent information available)

Clause 32(b)

Whether a change in shareholding of the company has taken place in the previous year due to which the losses incurred prior to the previous year cannot be allowed to be carried forward in terms of Section 79

Clause 32(c)

Whether the assesee has incurred any speculation loss referred to in Section 73 during previous year , if yes furnish the same

Clause 32(d)

Whether the assesee has incurred any loss referred to in section 73A in respect of any specified business during previous year , if yes furnish the same

Clause 32(e)

In case of company , please state that whether the company is deemed to be carrying on a speculation business as referred in explanation to section 73 , if yes , furnish the details of speculation loss if any incurred during the previous year

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
26	Section –wise details of deductions ,if any, admissible under Chapter VIA	33	Section – wise details of deduction, if any , admissible under Chapter VIA or Chapter III (section 10 and 10AA) 1. Section under which deduction is claimed 2. Amounts admissible as per provisions of the ITA and fulfils the conditions, if any specified under the relevant provisions of ITA, or IT Rules, or any other guidelines, circular, etc issued in the behalf

Clause 33

- Deductions admissible under chapter VI A or Chapter III (section 10 and 10AA)
- To report deduction and the Section under which it is claimed
- Amount of deduction admissible
  - Audits conducted by other auditor - responsibility of Tax Auditor.

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
27(a)	Whether the assessee has complied with the provision of Chapter XVII-B regarding deduction of tax at source and regarding the payment thereof to the credit of the Central Government.		Substituted in clause 34

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
27(b)	If the provisions of Chapter XVII-B have not been complied with, please give the following details*, namely:- 1. Tax deductible and not deducted at all 2. Shortfall on account of lesser deduction than required to be deducted 3. Tax deducted late 4. Tax deducted but not paid to the credit of the Central Government * Please give the details of cases covered in (i) to (iv) above.	34(a)	Whether the assessee is required to deduct or collect tax as per the provisions of Chapter XVII-B , or XVII BB if yes please furnish : 1. TAN 2. Section 3. Nature of payment 4. Total amount of payment or receipt of the nature specified in (3) 5. Total amount on which tax was required to be deducted or collected out of (4) 6. Total amount on which tax was required to be deducted or collected at specified rate out of (5) 7. Amounts of tax deducted or collected out of(6) 8. Total amount on which tax was deducted or collected at less than specified rate out of (7) 9. Amounts of tax deducted or collected out of(8) 10. Amounts of tax deducted or collected not deposited to the credit of the central government out of(6) and(8)

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
	Clause was not there	34(b)	Whether the assessee has furnished the statement of TDS and TCS within the prescribed time. If not , please furnish the details:- 1. TAN 2. Type of Form 3. Due date for furnishing 4. Date of furnishing, if furnished 5. Whether the statement of TDS or TCS contains information on about all transactions which are required to be reported
	Clause was not there	34(c)	Whether the assessee is liable to pay interest under Section 201(1A) or Section 206C (7). If yes, furnish :- 1. TAN 2. Amount of interest u/s 201(1A)/206C(7) is payable 3. Amount paid out of (2) along with date of payment

Certification of prescribed particulars in Form No. 3CD

Clause 34 (a)

- Details of tax deducted & collected at source to be reported
- Other additional details to be reported
  1. TAN
  2. Section
  3. Nature of payment
  4. Total amount of payment or receipt of the nature specified in (3)
  5. Total amount on which tax was required to be deducted or collected out of (4)
  6. Total amount on which tax was required to be deducted or collected at specified rate out of (5)
  7. Amounts of tax deducted or collected out of(6)
  8. Total amount on which tax was deducted or collected at specified rate out of (7)
  9. Amounts of tax deducted or collected out of(8)

Certification of prescribed particulars in Form No. 3CD

Clause 34(b)

- Auditor to report whether statement of TDS & TCS is furnished on time
- Other details to be furnished
    1. TAN
    2. Type of Form
    3. Due date for furnishing
    4. Date of furnishing, if furnished
    5. **Whether the statement of TDS or TCS contains information on about all transactions which are required to be reported**

Clause 34(c)

- Auditor to report whether assessee is liable to pay interest u/s 206C (7)
- If assessee is liable, other details to be furnished:
    1. TAN
    2. Amount of interest u/s 201(1A)/206C(7) payable
    3. Amount paid out of (2) along with date of payment

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
28(b)	In the case of a manufacturing concern , give quantitative details principal items of raw materials, finished products and by-products: A. Raw materials (vi) Yield of finished products (vii) % of yield (viii)Shortage/ excess , if any (Information of the above may be given to the extent available)	35	In the case of a manufacturing concern give quantitative details principal items of raw materials, finished products and by-products: A. Raw materials (vi) Yield of finished products (vii) % of yield (viii)Shortage/ excess , if any ~~(Information of the above may be given to the extent available)~~
29	In case of a domestic company ,details of tax on distributed profits under section 115-O in the following form : (a)Total amount of distributed profits (b)Total tax paid thereon (c) Dates of payment with amounts	36	In case of a domestic company ,details of tax on distributed profits under section 115-O in the following form :- (a) Total amount of distributed profits (b) Amounts of reduction as referred to in Section 115-O(1A)(i) (c) Amounts of reduction as referred to in Section 115-O(1A)(ii) (d) Total tax paid thereon (e) Dates of payment with amounts

Certification of prescribed particulars in Form No. 3CD

Clause 35

- Records not maintained – Auditor's Duty
- The remark 'to the extent available' in the case of yield of raw materials to the finished goods omitted – implications?

Clause 36

- Details of Dividend Distribution Tax
  - Total amount of distributed profits
  - Total tax paid thereon
  - Dates of payments with amounts
  - Amounts of reduction as referred to in Section 115-O (1A)(i) - dividend received from subsidiary
  - Amounts of reduction as referred to in Section 115-O (1A)(ii) - dividend paid by subsidiary to parent under New Pension Trust

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
30	Whether any cost audit was carried out, if yes, enclose a copy of the report of such audit (See Section 139(9))	37	Whether any cost Audit was carried out ,~~if yes enclose a copy of the report of such audit~~ .If yes , give details, if any, of disqualification or disagreement on any ,matter/ item/value/quantity as may be reported/ identified by the cost auditor

Clause 37

- Whether cost audit conducted , if yes, copy need not be enclosed
- Audit conducted during the year? – may not relate to the year of tax audit?
- Omission of reference to Section 139(9) would mean voluntary cost audit also ?
- Check implications *viz -a –viz* reporting on yield shortage/excess
- Details, of disqualification or disagreement on any ,matter/ item/value/quantity identified by the cost auditor to be reported
- Tax auditor may communicate, if necessary, with the cost auditor

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
31	Whether any audit was conducted under the Central Excise Act, 1994, if yes, enclose a copy of the report of such audit	38	Whether any audit was conducted under the Central Excise Act, 1994 ~~if yes enclose a copy of the report of such audit.~~ If yes , give details, if any, of disqualification or disagreement on any ,matter/ item/value/quantity as may be reported/ identified by the cost auditor

Clause 38

- Whether Central Excise Act, 1944 conducted , if yes, copy need not be enclosed
- Audit conducted during the year? – may not relate to the year of tax audit?

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
	Clause was not there	39	Whether any audit was conducted under Section 72A of the Finance Act,1994, in relation to valuation of taxable services. If yes , give details, if any, of disqualification or disagreement on any ,matter/ item/value/quantity as may be reported/ identified by the auditor

Clause 39

- Service Tax Audit only u/s 72A (special audit), not the audit under other Sections
  - Is scope restricted only to valuation?
- Audit conducted during the year? – may not relate to the year of tax audit?

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
32	Accounting ratios with calculations as follows for the previous year 1. Gross profit/Turnover 2. Net profit/Turnover 3. Stock-in-trade/Turnover 4. Material consumed/Finished goods produced	40	Details regarding turnover, gross profit, etc, for the previous year and 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 (The details required to be furnished for principal items of goods traded or manufactured or services rendered)

Clause 40

- Data based on books of account and not on the basis of section 145A adjustments
- 'Total turnover' vs. 'turnover'
- Exclusion of non 'principal items'
- Ratios to be reported of the year preceding the Previous year - reworking for previous year

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
	Clause was not there	41	Please furnish details of demand raised or refund issued during the previous year under any tax laws other than ITA and Wealth tax Act,1957 along with details of relevant proceedings.

Clause 41

- Any other tax laws – meaning not defined
  - Differentiate tax laws vs. other laws
  - Reconcile with reporting of indirect tax registrations information
- Demand raised and refund issued during the financial year
  - Date of raising / issued vs. date of receipt
  - Cut off cases
  - Show cause cum Demand notice
  - Tax auditor not an expert on all laws - reliance upon expert for reporting proceedings

Changes in Form 3CD – Part B

Pre Amendment		Post Amendment	
Clause No	**Particulars**	**Clause No**	**Particulars**
	Signed Place Date Name Address		Signature and stamp/Seal of the signatory Place Date Name of signatory Full address
	Notes: 1. The Annexure to this Form must be filled up failing which the Form will be considered as incomplete 2. This Form and the Annexure have to be signed by the person competent to sign Form3CA or Form3CB, as the case may be		Notes: ~~1. The Annexure to this Form must be filled up failing which the Form will be considered as incomplete~~ 2. This Form has to be signed by person competent to sign Form No.3CA or Form3CB, as the case may be.
	Annexure I Annexure II		Omitted

General Issues

- Engagement letter
- Documentation
- Management Representation Letter
- Authentication by the Assessee
- Branch Audit Reports
- Issuance of physical copy of the report
- Tax Auditor also rendering services for Income Tax Return Preparation

Glossary

ITA	Income Tax Act, 1961
TDS	Tax Deducted at Source
TCS	Tax Collected at Source
ITA Rules	Income Tax Act Rules,
TAN	Tax Deduction and Collection Account Number

THANK YOU VERY MUCH