TAX AUDIT QUERIES

1. Applicability of Section 44AB to a Resident & Ordinarily Resident (R&OR) Having Business Abroad

Query: If a R&OR has business income in India (requiring tax audit) and also business abroad, is foreign turnover included for Section 44AB? Who audits it?

Answer:
Tax audit applies only to the business income chargeable to tax in India. If the foreign business's accounts are maintained abroad and income is taxable in India (since R&OR is taxed on global income), such foreign figures form part of computation but not necessarily part of "turnover" for Section 44AB unless incorporated in Indian books.
The Indian tax auditor must verify the reconciliation between Indian and foreign accounts and may rely on the foreign audit report, but remains responsible for reporting the portion chargeable in India.

2. Revision of Tax Audit Report under Rule 6G

Query: When and to what extent can Form 3CA/3CB–3CD be revised?

Answer:
Rule 6G(2) allows revision only when payments or receipts made after the date of the original report but before the return due date affect particulars reported.
The revised report must clearly state the reason for revision and reference the earlier report.
A fresh UDIN is mandatory. Other revisions (clerical corrections or change in opinion) should be avoided unless a material misstatement exists and the client provides written consent.

3. Turnover for Derivative (F&O) Transactions

Query: How is turnover computed for F&O under Section 44AB?

Answer:
Per the Guidance Note – Turnover equals the absolute sum of favorable and unfavorable differences (profits/losses) from trades, plus premium received on sale of options, unless that premium is already considered in the difference computation.
If the accounting method nets the premium, avoid double-counting.
Maintain a trade-wise reconciliation from broker statements to ledger to substantiate turnover reporting.

4. Treatment of Loan Waiver under One-Time Settlement (OTS)

Query: Should waived term-loan amounts be credited to the Profit & Loss Account?

Answer:
Yes, the waiver must be recorded. Taxability depends on the loan's purpose:

- If the loan was originally allowed as a deduction → taxable u/s 41(1).
- If used for capital asset acquisition → capital receipt reducing cost/WDV. Disclose details under Clause 21/25, along with notes stating the nature and amount waived. Obtain bank confirmation and management representation.

5. Applicability of Section 50D vis-à-vis 43CA & 50C

Query: When does Section 50D come into play?

Answer:
Sections 43CA and 50C substitute stamp duty value (SDV) for declared sale value when the consideration is ascertainable but lower than SDV. Section 50D applies only where consideration cannot be determined or ascertained (e.g., asset exchanged for non-monetary consideration). In such cases, FMV on the date of transfer is deemed the full value of consideration. Tolerance limits (10%/20%) under 43CA/50C do not apply to Section 50D.

6. Discrepancy Between Statutory Audit and Tax Audit Findings

Query: How should the tax auditor report if his opinion differs from that of the statutory auditor?

Answer:
The tax auditor must express an independent view in Form 3CA by inserting a clear qualification or observation paragraph, stating the difference, its quantified effect (if determinable), and reliance placed on management representation.
Attach an explanatory note and maintain correspondence with the statutory auditor in working papers.

7. Error in Previous Year's Form 3CD Affecting Current Year

Query: Example – wrong depreciation last year continuing this year.

Answer:
If the same tax auditor audited the earlier year → he may revise the prior-year Form 3CD (if permissible) and correct figures in the current year, referencing the correction note. If a different auditor handled the prior year → treat the opening balances as management representations, verify reconciliation, and disclose in Clause 21/27 as a prior-period adjustment, adding an observation that prior-year data was not audited by the present tax auditor.

8. Books of Account – Maintenance and Audit Trail Issues

Query: If all books are kept electronically or destroyed/seized, how should the auditor report?

Answer:
Books maintained electronically satisfy Section 2(12A) & Rule 6F if proper backup exists and data can be produced on request. If records are destroyed or seized, obtain certified copies from the authority or reconstruct accounts from secondary evidence. Mention this limitation in Form 3CA and explain any delay caused. If reliance is placed on photocopies or partial data, state this as a limitation of scope and quantify the effect if possible.

9. Conversion of Capital Asset into Stock-in-Trade

Query: How is the date and value of conversion determined under Section 45(2)?

Answer:
Date of conversion = date on which the intention to convert is evidenced (resolution, affidavit, or development application). Value = FMV or Guideline Value on that date (obtain SRO/Valuer certificate). Maintain documentary proof and report under Clause 15. The auditor should verify that gain is offered in the year of sales, not the year of conversion.

10. Interaction Between Section 41(1) and Section 56(2)(x)

Query: If a liability is waived, can both sections apply simultaneously?

Answer:
No – they apply in different contexts:

- Section 41(1): applies to a business assesses when a previously claimed liability is remitted.
- Section 56(2)(x): applies to the recipient of money/property without consideration in a non-business context. The auditor should evaluate the nature of the transaction and disclose it under the appropriate clause, avoiding duplication.

11. Section 36(1)(va) – Employee's PF/ESI Contributions

Query: If March 2024 contributions were paid before 15 April 2024 but booked in FY 2024–25, how should this be reported?

Answer:
Report as a prior-period expense in Clause 26 and also comment under Clause 20(b). The deduction is allowable if paid within the statutory due date under PF/ESI laws, but the booking error requires disclosure. Reconcile Clauses 20(b) and 26 and indicate whether liability was omitted from FY 2023–24 accounts.

12. Expenditure for CSR That Could Also Qualify Under Sections 35 or 80G

Query: How should dual-eligible CSR expenditure be reported?

Answer:
CSR expenditure is specifically disallowed u/s 37(1). However, if it independently qualifies under a specific deduction (e.g., scientific research u/s 35 or donations u/s 80G) and conditions are met, deduction may still be claimed. The auditor must disclose CSR expenditure in Clause 19 and cross-reference it to relevant deduction clauses if claimed.

13. Section 40A(2)(b) – Scope of Disclosure

Query: Should payments to related parties be reported only if debited to P&L?

Answer:
Yes. Particulars relate to payments debited to the Profit & Loss Account (not provisions or capital items).
However, if a capital payment could attract scrutiny under 40A(2)(b) for excessiveness, it is advisable to mention it in remarks for transparency. Obtain a list of related parties and verify the authorizations and supporting documents.

14. Clause 31 – "Squaring Off" of Loans Under Sections 269SS/269T

Query: What constitutes squaring off and why is it significant?

Answer:
"Squaring off" means the repayment or adjustment (by journal or cash) of an earlier loan so that the balance becomes nil. Fresh loans taken before repaying existing ones may aggregate and breach the prescribed threshold. The tax auditor must report each loan/deposit transaction separately and mention the mode of receipt or repayment.

15. Clause 21(a) – Identification of Personal Expenses

Query: How should the auditor handle cases where the assesses disagrees on what constitutes a personal expense?

Answer:
"Personal expenditure" means expenditure not incurred wholly and exclusively for business purposes (Section 37(1)). If the assesses insists it is business-related, obtain a written management representation and supporting documents. If evidence is inadequate, disclose it under Clause 21(a) as an observation or qualification, stating the nature of the expense and the auditor's conclusion.

16. Reporting under Section 269SST

Q: While reporting under Section 269SST, a pop-up appears stating that each and every individual entry must be reported. Practically, this is difficult when there are hundreds of loan transactions with the same person during the year. How should this be handled?
A: The drop-down field for "Nature of Amount Received or Paid" does not permit netting off entries. Along with Form 3CD, the Profit & Loss Account, Balance Sheet, and Tax Audit Report are to be attached. It is advisable to also attach scanned copies of the relevant transactions, duly signed by the assessee.

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17. Due Date for Filing the Tax Audit Report

Q: What is the due date for filing the Income Tax Return for audit cases in the current year?
A: The due date for filing the Tax Audit Report is **31st October** of the relevant assessment year.

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18. Non-registration under GST

Q: If an assessee has a turnover exceeding ₹2 crore or ₹5 crore but is not registered under GST, what should be reported?
A: Any violation under another law must be reported. It is advisable to disclose such non-compliance in the remarks or by way of a separate note in the Tax Audit Report.

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19. Presumptive and Non-Presumptive Business

Q: If a client has both presumptive and non-presumptive businesses, and the non-presumptive business attracts tax audit due to threshold limits, does the presumptive business also require audit?
A: No. Only the non-presumptive business is subject to tax audit. However, details of the presumptive income should be appropriately disclosed in Form 3CD.

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20. Audit Opinion while Generating UDIN

Q: When generating a UDIN for a Tax Audit, there is a field titled "Audit Opinion." Which option should be selected?
A: If the auditor has given any qualification in Form 3CA, the relevant audit opinion should be selected. In cases of mere observations without qualification, this field may be left blank.

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21. Disclosure of MSME Creditors

Q: If the client does not possess details of creditors holding MSME registration, how should it be reported?
A: It is recommended to verify the invoices and obtain confirmation from the suppliers regarding their MSME status. This information should be appropriately documented.

22**. Derivative Transactions**

Q: Are derivative transactions included in turnover for the purpose of Section 44AB?
A: Yes. The sale of derivatives is to be included in turnover for determining the threshold limit under Section 44AB.

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23. Related Party Payments

Q: As per Section 40A(2)(b), should payments made by a partnership firm to a relative of a partner be disclosed?
A: Yes. Such payments must be disclosed in Form 3CD under the relevant clause.

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24. Cash Transaction Limit under Section 44AB

Q: If a client's turnover exceeds ₹1 crore but not ₹10 crore, and cash transactions exceed 5% of total receipts or payments, under which section should the audit be reported?
A: The audit should be reported under **Section 44AB(a)**.

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25. Tax Audit in Case of Deceased Assessee

Q: If a professional assessee subject to tax audit passes away during the year, how should the report be furnished?
A: The legal heir is responsible for filing the return and audit report for the period up to the date of death. Thereafter, income, if any, arising from the estate will be taxable in the hands of the legal heirs in their respective capacities. The name of the legal heir need not be mentioned in Form 3CD; the same can be stated as an observation in Form 3CB.

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26. Treatment of Cash Payments and Receipts

Q: Do cash payments or receipts include capital as well as revenue transactions?
A: Under Section 44AB, all cash payments and receipts, whether capital or revenue, are to be considered. However, under Section 44AD, only cash receipts related to sales are covered.

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27. Rule 6G – Audit Report

Q: What does Rule 6G pertain to?
A: Rule 6G prescribes the form and manner of furnishing audit reports. It also allows for the revision of the audit report in cases where payments are made after the date of the audit report but before the due date for filing the return of income. The revised audit report must capture such payments.

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28. Loan Waiver under One-Time Settlement

Q: If a portion of a term loan is waived by the bank under a one-time settlement, should the unpaid amount be credited to the Profit and Loss Account?
A: Yes, the waived amount should be credited to the Profit & Loss Account. However, as the taxability may depend on the specific facts and circumstances, obtaining a legal opinion is advisable before reporting.

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29. Applicability of Section 50D

Q: To what extent does Section 50D apply in addition to Sections 43C and 50C?
A: Section 50D, on the other hand, applies in cases where the *consideration is not ascertainable or cannot be determined*. In such situations, the **fair market value (FMV)** of

the property as on the date of transfer is deemed to be the full value of consideration. The law provides a **tolerance limit of 10%** (in certain cases 20%) between the stated sale consideration and the SDV

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30. TDS on Interest for Personal Loans

Q: Is TDS required to be deducted on interest payments when a loan is taken for personal purposes?
A: No. TDS is not applicable on interest paid on personal loans, as such payments are not related to business or professional expenditure. This may be mentioned as an observation in the audit documentation.