Presentation for

# Southern India Regional Council (SIRC) of ICAI

## Topic : Tax Audit for AY 2025-26 Clause 1 to 13 and 19 to 29

**(Saraswathi Pooja TAR Knowledge Series)**

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Date : 4th October 2025

# Material on Tax Audit

a) Guidance Note on Tax Audit under Sec 44AB by ICAI
b) Study on compliances in reporting in tax audit report issued by QRB
c) Technical Guide on Income Computation and Disclosure Standards
d) Approach to tax audit under section 44ab of the Income Tax Act, 1961 (Checklist)
e) Many more……..

# Taxation Audits Quality Review Board – (1/2)

The Board, under its purview, can review any report prescribed under the Income-tax Act, 1961 and Rules framed thereunder and any report prescribed under the Indirect Tax Laws including Goods and Services Tax Law which are certified by a Chartered Accountant (tax auditor) in respect of certain enterprises with a view to determine, to the extent possible:

a) Compliance with the reporting requirements prescribed under various sections of the Income-tax Act, 1961 and Rules thereunder;

b) Compliance with the reporting requirements prescribed under various provisions of the Indirect Tax Laws including Goods and Services Tax Law and

c) Compliance with the respective pronouncements, Guidance Notes, Technical Guides of ICAI, etc

# Taxation Audits Quality Review Board – (2/2)

The Board wherever finds any material non-compliance with the factors stated above, it may refer the case to the Director (Discipline) of the Institute of Chartered Accountants of India for initiating appropriate action against the tax auditor under the Chartered Accountants Act, 1949.

In cases where no material non-compliances are observed by the Board, and only immaterial non-compliances are observed, the Board may not refer the case to the Director (Discipline) of the Institute of Chartered Accountants of India for initiating action against the tax auditor under the Chartered Accountants Act, 1949. In such cases, the Board would appropriately bring the non-compliance to the attention of the tax auditor by way of an advisory.

# Clause 1 & 2 – Name and Address

1. Name of the Assessee and Trade Name

2. Name of the Assessee where audit is in respect of a Branch of the Assessee

3. <u>Address of the Assessee</u>
   The address to be mentioned under clause 2 should be the same as has been communicated by the assessee to the Income-tax Department as on the date of signing of the audit report.
   - ❖PAN
   - ❖Income Tax Portal
   - ❖Return of Income

4. Change of Name/Address
   1. Prior to close of the FY
   2. After the close of the FY

**OBSERVATION:** **QRB**

While reviewing various tax audit reports it was observed that the address reported under this clause was different from the one mentioned in Annual report or as registered with Ministry of Corporate Affairs.

# Clause 3 to 7 of Form 3CD

- Clause 3 - Permanent Account Number or Aadhaar Number

- Clause 4 - Whether the assessee is liable to pay indirect tax like excise duty, service tax, sales tax, Goods and Services Tax, customs duty, etc.; if yes, please furnish the registration number or GST number or any other identification number allotted for the same

**QRB Observations on GST Number**
**a) Not Matching with CARO Audit Report**
**b) Not matching with PAN**

Guidance Note

- Written Representation from Management
- Format of maintenance of working paper prescribed

| Sr. No | Relevant Indirect tax Law which requires registration | Place of Business/ profession/service unit for which registration is in place/ or has been applied for | Registration/ Identification number |
|---|---|---|---|
| 1 | 2 | 3 | 4 |

# Clause 3 to 7 of Form 3CD

- Clause 5 - Status

- Clause 6 - Previous year from…….. to ……
  - New Assessees
  - Amalgamations/Demergers

- Clause 7 - Assessment year

# Clause 8

Clause 8 - Indicate the relevant clause of section 44AB under which the audit has been conducted

a) Business where Turnover exceeds Rs 1 Crore
b) Profession where Gross Receipts exceed Rs 50 Lakhs
c) Not opting for Presumptive Tax under Sec 44AE, 44BB and 44BBB
d) Not opting for Presumptive Tax under Sec 44ADA
e) Opting out of Presumptive tax under Sec 44AD(4)

**OBSERVATION:**

**While reviewing various tax audit reports it was observed that the companies (which are required to get their accounts audited under Companies Act, 2013) had selected option (a) [Clause 44AB(a)-Total sales/turnover/gross receipts in business exceeding specified limits"] instead of option "*Third Proviso to section 44AB: Audited under any other law*".**

# Clause 8A

Whether the assessee has opted for taxation under section 115BA/ 115BAA/115BAB/115BAC/ 115BAD/115BAE?

- Scheme of Taxation of each Section is given in Page 68 to 80 of Guidance Note on Sec 44AB issued by ICAI.
- Recommendation for compliance with this Clause - Written Representation from the Assesse
- Examination of Forms filed under Respective Sections for opting out.
  What if the assessee differs from Written Representation at the time of filing Return?

# Clause 9 – Profit Sharing Ratio

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

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

Recommendation of GN

The tax auditor should obtain certified copies of the deeds, documents, understanding, notice of changes etc. including certified copies of the acknowledgment, if any, evidencing filing of documents with the concerned authorities, if registered.

# Clause 10 – Nature of Business

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

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

Recommendation of GN

- Additions/Deletions other than temporary to be reported
- List of Codes given in Appendix XVI of Guidance Note 2025
- Review Minutes of Board Meetings, Business Reports
- Check GST Registration Certificate

**OBSERVATION:**

While reviewing various tax audit reports it was observed that codes for business or profession for all main activities (principal line of each of the businesses) were not reported. Where they could be located clearly from the Annual report.

# Clause 11- Books of Accounts

(a) Whether books of account are prescribed under section 44AA, if yes, list of books so prescribed.

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

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

Sec 2(12A) defines books of account as *"books or books of account"* includes ledgers, day-books, cash books, account-books and other books, whether kept in the written form or in electronic form or in digital form or as print-outs of data stored in such electronic form or in digital form or in a floppy, disc, tape or any other form of electro-magnetic data storage device

# Clause 11 – Books of Accounts

Recommendation of GN

Under section 44AA read with Rule 6F, the books of account have been prescribed only in respect of persons carrying on specified profession. No books of account have been prescribed for the persons carrying on business or non-specified profession. This may be considered while verifying the reporting under clause 23(a).

In case, books of account are maintained and generated through computer system, the auditor should obtain from the assessee the details of address of the place where the server is located or the principal place of business/Head office or registered office by whatever name called and mention the same accordingly in clause 11(b). Where the books of account are stored on cloud or online, IP address (unique) of the same may be reported.

The auditor should also verify the specification as to which books of account have been maintained in computer system and which of the records have been maintained in hard copy form.

# Clause 11 – Books of Accounts

OBSERVATIONS:

While reviewing various tax audit reports, it was observed that:

a) For Companies, 'NO' books of account have been specifically prescribed under section 44AA of the Income-tax Act, 1961 and /or under Rule 6F of the Income-tax Rules, 1962. In some cases, 'YES' was reported while 'NO' should have been reported under this clause.

b) In various cases, location of maintenance of books of account was not reported while the same is the requirement of the format as well as the Guidance Note on tax audit under section 44AB of the Income-tax Act, 1961.

c) Also, the fact that the books of account are maintained in a computer system was not reported in many cases.

d) The various other relevant documents examined such as bills, vouchers, receipts, debit note, credit note, inventory register, agreements, orders, original purchase invoice, copy of bank statements, various agreements/ contracts or any other document on the basis of which preliminary entries are passed in the books of account, have missed reporting in various cases. As

# Clause 12 – Profits offered under Presumptive Taxation

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, 44ADA, 44AE, 44AF, 44B, 44BB, 44BBA, 44BBB, 44BBC Chapter XII-G, First Schedule or any other relevant section.

Recommendation of GN

Summary of Provisions given in Para 24.11 – page 91 to 102 of Guidance Note

a) Whether Separate set of books of accounts are maintained ? If no, how to apportion common expenditure?

b) If the books are maintained only for business liable for audit under Sec 44AB and not for others?

# Clause 13 – Method of Accouting

(a) Method of accounting employed in the previous year.

(b) Whether there had been any change in the method of accounting employed *vis-a-vis* the method employed in the immediately preceding previous year.

(c) If answer to (*b*) above is in the affirmative, give details of such change, and the effect thereof on the profit or loss:

| *Serial number* | *Particulars* | *Increase in profit (Rs.)* | *Decrease in profit (Rs.)* |
|---|---|---|---|
| | | | |

# Clause 13 – Method of Accouting

(d) Whether any adjustment is required to be made to the profits or loss for complying with the provisions of income computation and disclosure standards notified under section 145(2).

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

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

# Clause 13 – Method of Accouting

Disclosure as per ICDS:

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

# Clause 13 – Method of Accouting

**OBSERVATIONS:**

While reviewing various tax audit reports, it was observed that:

a) If any adjustment is required to be made to the profits or loss for complying with the provisions of income computation and disclosure standards, then details of such adjustments are required to be reported under clause 13(e). In such cases under clause 13(d) *'YES'* is to be selected from the drop-down menu in the e-filing utility. Once the same is selected, the form enables reporting details of such adjustments under clause 13(e). In many cases *'NO'* was selected under clause 13(d), which disabled reporting under clause 13(e), however, details of such adjustments were found to be reported under clause 13(f) (i.e., reporting disclosures as per ICDS). Selection of *'NO'* in clause 13(d) is inappropriate in cases where adjustment is to be reported under clause 13(e).

b) Clause 13(f) requires disclosures in respect of certain notified ICDS, which was not done in many cases. In few cases, disclosures were made where any deviation from the notified ICDS was encountered.

# Clause 13 – Method of Accouting

c) As per disclosure requirements of ICDS – II (Valuation of Inventories), '*the accounting policies adopted in measuring inventories including the cost formulae used*' are to be reported.

Further, as per Para 3 of the ICDS –II

— *inventories shall be valued at "cost OR net realisable value whichever is lower".*

As per Para 5 of the Revised AS 2

— *inventories shall be valued at "lower of cost AND net realisable value".*

In few cases, the accounting policies reported were as per the language prescribed in Para 5 of the Revised AS-2 (or IND AS-2 wherever applicable) and not as per Para 3 of the ICDS –II. The reporting under clause 13(f) is required to be done as prescribed by the ICDS, which was not done. There could be a limitation in the form uploaded on IT Portal, which provides certain wordings in the drop down list, however the auditor should ensure that correct valuation method is mentioned in the hard copy issued to the auditee.

# Clause 20

(a) Any sum paid to an employee as bonus or commission for services rendered, where such sum was otherwise payable to him as profits or dividend. [Section 36(1)(*ii*)]

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

| S.No | Nature of the Fund | Sum received from employees | Due date of payment | The actual amount paid | The actual date of payment to the concerned authorities |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |

Checkmate Services Private Limited Vs CIT-1 – Hon'ble Supreme Court

# Clause 20

**OBSERVATIONS:**

While reviewing various tax audit reports, it was observed that:

a) In certain cases, the details pertaining to provident fund have been reported under clause 20(b) but nothing was reported for ESI Fund, while regular contribution to the same was clearly reflecting in the Annual report of the company.

b) Also, "due date" reported for the relevant fund was not correct in some cases.

# Form 3CD – 3rd Amendment – Clause 21

a) Expenditure for any purpose which is an offence or is prohibited by law or expenditure by way of penalty or fine for violation of any law (enacted in India or outside India

b) Expenditure incurred compound an offence under any law for the time being in force, in India or outside India

c) Expenditure incurred to provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guideline, as the case may be, for the time being in force, governing the conduct of such person

d) Expenditure incurred incurred to settle proceedings initiated in relation to contravention under such law as notified by the Central Government in the Official Gazette in this behalf

Entire Clause newly inserted → In view of amendment to Sec 37

# Clause 21 vis-a-vis Sec 37

Sec 37 :

Any expenditure (not being expenditure of the nature described in sections 30 to 36 and not being in the nature of capital expenditure or personal expenses of the assessee), laid out or expended wholly and exclusively for the purposes of the business or profession shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

Explanation 1.—For the removal of doubts, it is hereby declared that any expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law SHALL NOT be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure.

# Clause 21 vis-a-vis Sec 37

Explanation 3.—For the removal of doubts, it is hereby clarified that the expression "expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law" under Explanation 1, shall include and shall be deemed to have always included the expenditure incurred by an assessee,—

(i) for any purpose which is an offence under, or which is prohibited by, any law for the time being in force, in India or outside India; or

(ii) to provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guideline, as the case may be, for the time being in force, governing the conduct of such person; or

(iii) to compound an offence under any law for the time being in force, in India or outside India.

(iv) to settle proceedings initiated in relation to contravention under such law as may be notified by the Central Government in the Official Gazette in this behalf.

# Clause 21

Recommendation of GN

Supreme Court in

Mahalakshmi Sugar Mills Co. Ltd. Vs CIT 123 ITR 429 and

CIT Vs Hyderabad Allwyn Metal Works Ltd 172 ITR 113

wherein it was held that there is a distinction between amount paid by the assessee as compensatory in nature or penal in nature and only amounts paid in penal nature were not allowable.

Wherever such impost is found to be of a composite nature, that is, partly of compensatory nature and partly of penal nature, the authority would have to bifurcate the two components of the impost and give deduction of that component which is compensatory in nature and refuse to give deduction of that component which is penal in nature

# Clause 21 – Compounding of Offences

Recommendation of GN

- Verify the nature of litigations which are ongoing and continuing. If he is unable to verify, then, he can obtain the management representation for the same;

- Obtain the list of applications and details where such compounding application has been made during the year;

- Call for the evidence of payment of fees and the compounding payment details made during the year;

- Verify the details with the books of account and see whether the same are debited to the profit and loss account/income and expenditure account during the year

# Clause 21 – Late filing Fee

c) Late filing fee of TDS return, paid during the year, was reported under this sub-clause, under the sub-heading 'as any other penalty or fine not covered above'. As per MCQ's on Late filing fees and penalty hosted at the link https://www.incometaxindia.gov.in/Tutorials/25-%20MCQ%20Late%20filing%20fees%20and%20penalty.pdf in respect of *'Late filing fees under section 234E'* it has been stated: *'It should be noted that Rs. 200 per day is not penalty but it is a late filing fee'*. Thus, the same is not required to be reported under this sub-clause.

# Clause 21(b) – TDS related disallowances

(*i*) as payment to non-resident referred to in sub-clause (*i*)

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

- (I) date of payment
- (II) amount of payment
- (III) nature of payment
- (IV) name and address of the payee

(B) Details of payment on which tax has been deducted but has not been paid during the previous year or in the subsequent year before the expiry of time prescribed under section 200(1)

- (I) date of payment
- (II) amount of payment
- (III) nature of payment
- (IV) name and address of the payee
- (V) amount of tax deducted

100% Disallowance

(*ii*) as payment referred to in sub-clause (*ia*)

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

- (I) date of payment
- (II) amount of payment
- (III) nature of payment
- (IV) name and address of the payee

(B) Details of payment on which tax has been deducted but has not been paid on or before the due date specified in sub-section (1) of section 139.

- (I) date of payment
- (II) amount of payment
- (III) nature of payment
- (IV) name and address of the payer*
- (V) amount of tax deducted
- (VI) amount out of (V) deposited, if any

30% Disallowance

# Clause 21(b) – Important References

- Rule 31ACB read with Form 26A
  - Applicability
  - Procedure for issue
  - Retrospective applicability of proviso to Sec 40(a)(i)

- Interplay between the 1st and 2nd Proviso to Sec 40(a)(ia)

- Caselaws on Short payment

  - CIT Vs S.K. Tekriwal - 48 SOT 515 & Calcutta HC upheld the decision
  - Chandabhoy & Jassobhoy vs DCIT - 49 SOT 448
  - ACIT Vs NGC Networks Pvt Ltd - ITA No. 1382/M/2014

# Clause 21(b) – QRB

**OBSERVATIONS:**

While reviewing various tax audit reports, it was observed that:

a) In some cases, a consolidated sum in respect of *'provision for various expenses'* of 'sundry parties' were reported. Instead of the date of crediting the amount of provision in the books of account, a random/ dummy date was reported in many cases.

b) Reporting under this clause is required separately for each of the individual payee. Consolidated reporting for the heads under which tax has not been deducted has been done in certain cases.

c) Reporting of inadmissible amount on account of non- deduction of taxes for '*resident*' (30%) as well as '*non-resident payee*' (100%) are to be reported appropriately under respective sub-clauses. This was however not done in few cases. Instead of reporting of details of *'resident payee'*, details of *'non-resident payee'* were reported under clause 21(b)(ii)(A). Similarly, instead of reporting of details of *'non-resident payee'*, details of *'resident payee'* were reported under clause 21(b)(i)(A).

d) Complete address of the payee was not reported in few cases.

# Clauses – 21(d)

Clause 21(d) – Sec 40A(3) disallowance – Now applicable for Capital Assets also

**OBSERVATIONS:**

While reviewing various tax audit reports, it has been observed that:

a) Where the reporting has been done on the basis of certificate from the assessee, the fact was not reported as an observation in clause (3) of Form No. 3CA and clause (5) of Form No.3CB, as the case may be as required by the Guidance Note.

b) The observation/ qualification under this clause were provided in the notes attached to Form No. 3CA. However, the same should be reported under clause (3) of Form No. 3CA and/or clause (5) of Form No.3CB, as the case may be as required by the Guidance Note.

# Other Clauses

1) Clause 21(h) – Sec 14A disallowance

2) Clause 21(i) – Interest under Sec 36(1)(iii)

3) Clause 23 – Payments to parties specified under Sec 40A(2)(b)

**OBSERVATIONS:**

**While reviewing various tax audit reports, it has been observed that:**

a) **In certain cases, 'Name' and 'PAN' of persons specified under section 40A(2)(b) were not reported.**

b) **In certain cases, the amount reported under this clause did not match with the amount as mentioned in the Annual Report.**

c) **In certain cases, consolidated figures were reported instead of respective transaction with respective persons as specified under section 40A(2)(b).**

# Form 3CD – 4th Amendment – Clause 22

| | | |
|---|---|---|
| 22 | (i) Amount of interest inadmissible under section 23 of the Micro, Small and Medium Enterprises Development Act, 2006 (MSMED Act); or<br><br>(ii) Total amount required to be paid to a micro or small enterprise, as referred to in section 15 of the MSMED Act, during the previous year;<br>(iii) Of amount referred to in (ii) above, amount –<br>(a) paid up to time given under section 15 of the MSMED Act;<br>(b) not paid up to time given under section 15 of the MSMED Act and inadmissible for the previous year.”; | |

# Clause 22 - MSME Classification

| Criterion | Applicable Period | Micro Enterprise | Small Enterprise | Medium Enterprise |
|---|---|---|---|---|
| | | Rs. | Rs. | Rs. |
| Investment in Plant and Machinery or Equipment does not exceed | 1.7.2020 to 31.3.2025 **(relevant upto A.Y.2025-26)** | 1 crore | 10 crore | 50 crore |
| | w.e.f. 1.4.2025 **(relevant from A.Y.2026-27)** | 2.50 crore | 25 crore | 125 crore |
| Annual Turnover does not exceed | 1.7.2020 to 31.3.2025 (**relevant upto A.Y.2025-26)** | 5 crore | 50 crore | 250 crore |
| | w.e.f. 1.4.2025 **(relevant from A.Y.2026-27)** | 10 crore | 100 crore | 500 crore |

# Disallowance u/s 43B(h)

**Following clause (h) shall be inserted after clause (g) of section 43B by the Finance Act, 2023, w.e.f. 1-4-2024:**

(h) any sum payable by the assessee to a micro or small enterprise beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006)

shall be allowed (irrespective of the previous year in which the liability to pay such sum was incurred by the assessee according to the method of accounting regularly employed by him) only in computing the income referred to in section 28 of that previous year in which such sum is actually paid by him:

Provided that nothing contained in this section *except the provisions of clause (*h*)* shall apply in relation to any sum which is actually paid by the assessee on or before the due date applicable in his case for furnishing the return of income under sub-section (1) of section 139 in respect of the previous year in which the liability to pay such sum was incurred as aforesaid and the evidence of such payment is furnished by the assessee along with such return

# MSME Disallowance u/s 43B(h)

| Sl. No. | Day of acceptance or deemed acceptance | Agreed upon payment date in writing | Due date of payment as per Section 15 of MSMED Act | Actual Date of Payment | Status in terms of Section 43B(h) |
|---|---|---|---|---|---|
| 1 | 20th March 2025 | 19th April 2025 | 19th April 2025 | 19th April 2025 | Allowed in A.Y. 2025-26 |
| 2 | 20th March 2025 | 19th April 2025 | 19th April 2025 | 10th May 2025 | Disallowed in A.Y.2025-26; Allowed in A.Y. 2026-27 |
| 3 | 20th March 2025 | 19th April 2025 | 19th April 2025 | 10th June 2026 | Disallowed in A.Y. 2025-26; Allowed in A.Y. 2027-28 |

# Form 3CD – 4th Amendment – Clause 22

| | | |
|---|---|---|
| 22 | (i) Amount of interest inadmissible under section 23 of the Micro, Small and Medium Enterprises Development Act, 2006 (MSMED Act); or<br><br>(ii) Total amount required to be paid to a micro or small enterprise, as referred to in section 15 of the MSMED Act, during the previous year;<br>(iii) Of amount referred to in (ii) above, amount –<br>(a) paid up to time given under section 15 of the MSMED Act;<br>(b) not paid up to time given under section 15 of the MSMED Act and inadmissible for the previous year.”; | Total Amount paid to MSME including Capital Payments are to be given<br><br>**Failed to appreciate the GAP** |

# MSME Reporting in Notes on Accounts

(i) The principal amount and interest due thereon (to be shown separately) remaining unpaid to any supplier as at the end of each accounting year;

(ii) The amount of interest paid by the buyer in terms of Section 16, along with the amount of payment made to supplier beyond the appointed date during each accounting year;

(iii) The amount of interest due and payable for the delay in making payment (which have been paid but beyond the appointed day during the year) but without adding the interest specified under this Act;

(iv) The amount of interest accrued and remaining unpaid at the end of each accounting year; and

(v) The amount of further interest remaining due and payable even in the succeeding years, until such date when the interest dues as above are actually paid to the small enterprise, for the purpose of disallowance as a deductible expenditure under section 23.

# Clause 25 – Section 41

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

- ICAI's & QRB's views

**OBSERVATION:**

While reviewing various tax audit reports it was observed that the amount mentioned in Annual report, which was chargeable to tax under section 41 and reportable under this clause, was not reported in many cases. It is to be noted that as per the Guidance Note the same is required to be reported irrespective of the fact whether the relevant amount has been credited to the profit and loss account or not.

# Form 3CD – 5th Amendment – Clause 26

| Clause | Before Amendment | Amendment made to wordings |
|---|---|---|
| 26 | In respect of any sum referred to in Clause (a), (b), (c), (d), (e), (f), (g) of section 43B, the liability for which: — | Clause (a), (b), (c), (d), (e), (f), (g) is removed |
| | (*A*) pre-existed on the first day of the previous year but was not allowed in the assessment of any preceding previous year and was<br>(*a*) paid during the previous year;<br>(*b*) not paid during the previous year; | Replaced with "allowable" |
| | (*B*) was incurred in the previous year and was<br>(*a*) paid on or before the due date for furnishing the return of income of the previous year under section 139(1);<br>(*b*) not paid on or before the aforesaid date.<br><br>**(State whether sales tax, customs duty, excise duty or any other indirect tax, levy, cess, impost, etc., is passed through the profit and loss account.)** | Replaced with "and (for clauses other than clause (h) of section 43B)" |

# Clause 26 – Sec 43B

Two diverging views of the hon'ble Supreme Court

**CIT Vs Modipon Limited** **400 ITR 1 (2018) – PLA**

**Maruti Suzuki India Limited Vs CIT** **421 ITR 510 (2020) – RG 23A**

- How to reconcile ??
- When to use the above two decisions ??

# Clause 26 – Sec 43B - QRB

**OBSERVATION:**

While reviewing various tax audit reports it was observed that in certain cases when excise duty was passed through profit and loss account, instead of reporting the fact as 'YES', 'NO' was reported under this clause.

# Form 3CD – 6th Amendment – Clause 28 & 29

| Clause | Before Amendment | Amendment made |
|---|---|---|
| | | |
| 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 Sec 56(2)(via), if yes, please furnish the details of the same. | OMITTED |
| 29 | Whether during the previous year the assessee received any consideration for issue of shares which exceeds the fair market value of the shares as referred to in Sec 56(2)(viib), if yes, please furnish the details of the same. | OMITTED |

# Revision to Tax Audit Report

Furthermore, sub-rule(3) of Rule 6G provides that the report of audit furnished under this rule may be revised by the person by getting revised report of audit from an accountant, duly signed and verified by such accountant, and furnish it before the end of the relevant assessment year for which the report pertains, if there is payment by such person after furnishing of report under sub-rule (1) and (2) which necessitates recalculation of disallowance under section 40 or section 43B

# Income Tax Audits - Precautions

- Possible Actions against a CA
  - Penalty under Sec 271J
  - Reference to the Institute for disciplinary action
  - Prosecution under Sec 278

- CAs using private softwares such as Winman, Computax etc – To be more careful

- Adequate Documentation alone will save from above penal actions.

# Tax Audit – Essential Documentation

- Appointment Letter
- No Objection Letter from Previous Auditor (if new assignment)
- Audit Engagement Letter (if new assignment or change of ownership)
- Management Representation Letter
- Significant Accounting Policies (in line with ICDS 1)
- Working papers for important items in P&L and Balance Sheet
  - ✓ Inventory,
  - ✓ Bank and Loan Balances,
  - ✓ GST Returns,
  - ✓ Soft Copy of Books in software with hard copy of TB duly signed by assessee
- Key decisions taken and their backing/supportings
- Client signed copy of Financial Statements and Form 3CD

# Thank you !!!

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