Tax Audit Seminar

Clauses 14-18 & 30-44

SIRC of ICAI, Chennai

October 6, 2025

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Tax Audit Report – Form 3CD

Clause	Particulars	No of Sub-clauses
14	Closing Stock - Inventory	2
15	Conversion of Capital Asset into Stock-in-Trade	1
16	Amount Credited to Profit & Loss Account	5
17	Transfer of Land or Building or Both	1
18	Depreciation Allowable	1
30	Amount Borrowed on Hundi	1
30A	Any Primary Adjustment to Transfer Price – 92 CE	1
30B	Expenditure in the nature of Interest – 94B	1
30C	Impermissible Avoidance Agreement - 96	1
31	Loan or Deposit	9

Tax Audit Report – Form 3CD

Clause	Particulars	No of Sub-clauses
32	Brought Forward Loss or Depreciation Allowance	5
33	Chapter VIA or Chapter III Deduction	1
34	Tax Deduction at Source	3
35	Quantitative Particulars	2
36A	Deemed Dividend Received	1
36B	Buyback of Shares	1
37	Cost Audit	1
38	Audit under Central Excise Act	1
39	Audit under Section 72A of the Finance Act	1
40	Details of Turnover, Gross Profit etc.,	1

Tax Audit Report – Form 3CD

Clause	Particulars	No of Sub-clauses
41	Demands Raised / Refunds Issued under Any Laws	1
42	Any return to be furnished - Form 61 / 61A	1
43	Any obligation to file report under section 286 (2)	1
44	GST Reconciliation	1

Clause 14 (a)

Method of valuation of closing stock employed in the previous year
➢ The term closing stock will include all types of inventories
➢ AS-2 & Ind AS-2 define the term "inventories" to include finished goods, raw materials, work-in-progress, materials, maintenance supplies, consumables and loose tools. Therefore, method of valuation of all items of inventories will have to be given under sub-clause (a).
➢ The auditor to obtain the complete list of inventory indicating the basis of valuation for reporting
➢ The method of valuation has to be consistently followed from year to year and the same has to be brought out clearly
➢ The components of cost to be reviewed to ensure there exist no over / under valuation
➢ For those Assessees who follow Cash basis of accounting (for whom ICDS is not applicable), by virtue of AS-2 only “Exclusion Method” can be adopted for accounting by them. But Sec. 145A requires disclosure under “Inclusion Method”. So, the adjustments u/s 145A will have to be made in all cases where “Exclusion Method” is followed.

Clause 14 (a)

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

Cost of Purchase –

- **ICDS II** - The costs of purchase shall consist of purchase price including duties and taxes, freight inwards and other expenditure directly attributable to the acquisition. Trade discounts, rebates and other similar items shall be deducted in determining the costs of purchase. **(Inclusive Method)**
- **AS 2 / Ind AS 2** - The costs of purchase shall consist of purchase price including duties and taxes (other than those subsequently recoverable by the enterprises from the taxing authorities) freight inwards and other expenditure directly attributable to the acquisition. Trade discounts, rebates, duty drawbacks and other similar items are deducted in determining the costs of purchase. **(Exclusive Method)**
- Thus, the accounting standard specifically excludes those duties and taxes which are subsequently recoverable by the enterprise.
- However, Inclusive Method is not permitted both under Ind AS-2 & AS-2. In view of the above, the adjustments under section 145A will have to be made in all cases where 'exclusive method' is followed
- **The adjustments envisaged by section 145A will not have any impact on the trading account** of the assessee. In other words, both under exclusive method of accounting and inclusive method of accounting, the gross profit in the trading account will remain the same

Clause 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
➢ (i) Serial No:
➢ (ii) Particulars:
➢ (iii) Increase in Profit (Rs.)
➢ (iv) Decrease in Profit (Rs.)

Clause 14

Action Points
➢ Study the procedure followed by the Assessee in taking the Inventory of Closing Stock at the end of the year, and obtain the method of valuation thereof.
➢ Examine whether the method of stock valuation is followed consistently from year to year. Examine the workings relating to stock valuation and cost details.
➢ Peruse the stock valuation statement to verify correctness of method of valuation. Ensure that the method followed for valuation of stock results in disclosure of correct profit and gains.
➢ Examine compliance with applicable ICDS – II or AS-2 as regards methods and principles of inventory valuation.
➢ Ensure whether proper adjustments are made in “Statement of Computation of Total Income” for differences arising out of GST, any other cess, etc. where exclusion method of accounting is followed.
➢ Ensure that if any deduction is claimed for any tax, duty, cess or fee in relation to stock by way of debit in the profit and loss account, either in the earlier year or in the year under report, adjustment for the same should be made in such a manner that no double deduction is claimed for the same expenditure.

Clause 14

Action Points
Inclusion of Overheads in inventory valuation ➢ Historical cost of manufactured inventories should be arrived at on the basis of absorption costing and allocation of Fixed Costs of inventories should be based on the normal level of production. ➢ As per ICDS II and as per AS-2, overheads should be included as part of the Inventory cost only to the extent that they clearly relate to putting the Inventories in their present location and condition.
Change in Method of Valuation ➢ Change in the method of valuation of closing stock need not be given under Clause 14. However any change in the method of valuation of closing stock would amount to change in accounting policy, and needs to be disclosed in the Financial Statements as required by ICDS I. Hence, **reporting requirements of Clause 13 are attracted.**
Valuation of Inventory in case of certain Dissolutions ➢ In case of dissolution of a partnership firm or association of persons or body of individuals, notwithstanding whether business is discontinued or not, the inventory on the date of dissolution shall be valued at the net realizable value.

Clause 14

Action Points
Net Realisable Value ➢ Inventories shall be written down to net realisable value on item-by-item basis. Where 'items of inventory' relating to the same product line having similar purposes or end uses are produced and marketed in the same geographical area cannot be practically evaluated separately from other items in that product line, such inventories shall be grouped together and written down to net realizable value on an aggregate basis. ➢ Net realizable value shall be based on the most reliable evidence available at the time of valuation. The estimates of net realizable value shall also take into consideration the purpose for which the inventory is held. The estimates shall take into consideration fluctuations of price or cost directly relating to events occurring after the end of previous year to the extent that such events confirm the conditions existing on the last day of the previous year. ➢ Materials and other supplies held for use in the production of inventories shall not be written down below the cost, where the finished products in which they shall be incorporated are expected to be sold at or above the cost. Where there has been a decline in the price if materials and it is estimated that the cost of finished products will exceed the net realisable value, the value of materials shall be written down to net realisable value which shall be the replacement cost of such materials.

Clause 14 – Observations of QRB

While reviewing various tax audit reports, it was observed that

- Method of valuation has not been reported under clause 14(a) for each item of inventories separately (be it raw materials, work-in-progress, materials, maintenance supplies, consumables and loose tools) as suggested by the Para 23.3 of the Guidance Note.
- In many cases, valuation was done as per AS 2 or IND AS 2 i.e., exclusive method was followed. In all such cases details of deviations encountered between exclusive method of valuation and inclusive method of valuation as prescribed under section 145A of the Income- tax act and effects of inclusion of duties & taxes as suggested by the Para 23.11 of the Guidance Note are remained to be reported.
- As per the reporting requirement of clause 14(a), method of valuation of closing stock employed in the previous year is to be reported. In few cases, the reporting as prescribed for valuation of inventories as per Revised AS-2 (or IND AS-2 wherever applicable) was not done. Instead, reporting as per ICDS was done.

Clause 15

Give the following particulars of the capital asset converted into stock-in-trade:
➢ Description of capital asset
➢ Date of acquisition
➢ Cost of acquisition
➢ Amount at which the asset is converted into stock-in-trade

The following to be taken into account
➢ The provisions of Sections 2(47), 45(2), 47(iv), 47(v) & 47A to be kept in mind while checking this clause
➢ Any transfer will be subjected to tax only in the year of ultimate sale
➢ Cost of acquisition is a must. Even depreciable asset, we need to mention both the date of acquisition and cost of acquisition
➢ The excess of the Sale Price over the FMV on the date of transfer will be taxed as Business Income

Clause 15

Action Points
➢ Obtain from the assesse, a complete list of all Capital assets, converted into Stock-in-Trade, during the year report.
➢ Examine the Fixed Asset schedule to ascertain the details of Assets discarded, sold and converted into stock-in-trade.
➢ Verify compliance with ICDS V/ AS-10 for arriving at cost of self-constructed assets, i.e. costs that relate directly to the specific Capital Asset and those that are attributable to the construction activity in general and can be allocated to the specific asset.
➢ Obtain copies of Valuation Report given by the expert, in case an asset is capitalized based on Fair Market Value. Examine compliance with Standards on Auditing relating to Using the work of others.
➢ Verify the Journal entry passed in the Books of Accounts at the time of conversion of the asset into or treatment of the same as Stock-in-Trade.
➢ Ascertain the value at which the asset is converted into Stock in Trade. If a value other than the carrying amount is recorded, examine the basis of arriving at such a value.

Clause 16

Amounts not credited to the profit and loss account, being:
➢ the items falling within the scope of Section 28
➢ the proforma credits, drawbacks, refund of duty of customs or excise or service tax, or refund of sales tax or value added tax, where such credits, drawbacks or refunds are admitted as due by the authorities concerned;
➢ escalation claims accepted during the previous year;
➢ any other item of income;
➢ capital receipt, if any.

Clause 16

Action Points:
➢ **Sub-clause (a):** Covers all items of income chargeable under Section 28 which are not taken to the P&L. These include profits from business/profession, compensation on termination, export incentives, benefits or perquisites u/s 28(iv), partner's remuneration, keyman policy proceeds, conversion of inventory into capital asset, and sums received on demolition/discard of capital assets allowed u/s 35AD. Items reported separately in sub-clauses (b), (c), (d) need not be repeated here.
➢ **Sub-clause (b):** Requires reporting of pro forma credits, duty drawback, refunds of customs, excise, GST, VAT, service tax etc., which have been **admitted as due by authorities during the year** but not credited to the P&L. Auditor should verify departmental correspondence and portals to confirm admission.
➢ **Sub-clause (c):** Relates to **escalation claims** accepted by the other party during the year but not recorded in the P&L. Only claims unconditionally accepted are to be considered; disputed or pending claims do not qualify.
➢ **Sub-clause (d):** Covers **any other income items** which, based on auditor's verification, should form part of income but have not been credited. AS-9 / Ind AS-115 on revenue recognition should be kept in mind while reporting.

Clause 16

Capital Receipts

- Capital subsidy received in the form of Government grants which are in the nature of promoters' contribution i.e., they are given with reference to the total investment of the undertaking or by way of contribution to its total capital outlay. e.g. Capital Investment Subsidy Scheme.
- Compensation for surrendering certain rights.
- Profit on sale of fixed assets/investments to the extent not credited to the profit and loss account.
- Receipt of non-refundable deposits or forfeiture of any deposits not credited to P&L.
- Government grant in relation to a specific fixed asset where such grant is shown as a deduction from the gross value of the asset by the concern in arriving at its book value.
- Equity, Loans and borrowings are not required to be stated under sub-clause
- If during the course of audit, the auditor finds that certain incomes (e.g. income referred to in section 41(1)) are not credited to profit and loss account, the particulars of the same along with the amount are required to be reported.

Clause 17

Where any land or building or both is transferred during the previous year for a consideration less than value adopted or assessed or assessable by any authority of a State Government referred to in section 43CA or 50C, please furnish
➢ Details of property
➢ Consideration received or accrued
➢ Value adopted or assessed or assessable
➢ Whether provisions of second proviso to sub-section (1) of section 43CA or fourth proviso to clause (x) of sub section (2) of section 56 applicable? [Yes/No]

Clause 17

Action Points
Sections 43CA and 50C deal with cases where the consideration received on transfer of land or building (43CA: Non-Capital Assets; 50C: Capital Assets) is less than the value adopted or assessed for stamp duty by the relevant State authority. For tax purposes, the value adopted or assessed is deemed to be the full value of consideration, except where the stamp duty value does not exceed 110% of actual consideration, in which case the actual consideration is taken.
The tax auditor is required to furnish details of all such transactions during the previous year, including: ➢ Property Details: Nature of the property (land or building), address, and in case of multiple properties, details of each property transferred. Verification may be made from books of account, P&L, balance sheet, or external sources such as legal documents or expert opinions. ➢ Consideration Received or Accrued: The actual amount received or due in respect of the transfer during the relevant year. ➢ Value Adopted/Assessed for Stamp Duty: The value as determined by the authorities for stamp duty purposes

Clause 17 – Observations of QRB

Observation
➢ While reviewing various tax audit reports, it was observed that in certain cases reporting under this clause was done when consideration received on transfer of an asset (capital or otherwise) being land, or building, or both and the value adopted u/s 43CA or 50C were same, which was not required.

Clause 18

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

- Description of asset/block of assets
- Rate of Depreciation
- Actual cost or written down value, as the case may be
- Adjustment made to the written down value
  - under the proviso to sub section (3) of section 115BAA (for assessment year 2020-21 only)
  - under the first proviso to sub-section (3) of section 115BAC or the proviso to sub-section (3) of 115BAD (for assessment year 2021-22 only);
  - under the second proviso to sub-section (3) of section 115BAC (for assessment year 2024-25 only).
- Adjustment made to written down value of Intangible asset due to excluding value of goodwill of a business or profession
- Adjusted written down value
- 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 (CENVAT, Exchange Fluctuations, Subsidy or Grant etc.,)
- Depreciation Allowable &
- Written down value at the end of the year

Clause 18

Action Points

Under this clause the auditor need to furnish the particulars of depreciation allowable as per the Income-tax Act, 1961 in respect of each asset or block of assets, as required under the clause to be given in detail.

Broad areas of verification required while reporting under clause 18?

- Classification of an Asset – for allowability of depreciation thereon.
- Classification of an Asset to a particular Block – for determination of rate of depreciation.
- Determination of Actual Cost and Written Down Value.
- Date of acquisition and date on which it is put to use.
- Additions/ Deductions made to the assets and respective dates thereof.
- Adjustments required – Foreign Exchange, CENVAT Credit, Sale/Transfer of assets etc.
- Applicable rate of depreciation as per the Income-Tax Rules, 1962.

The Tax auditor will be conducting the audit in the current year only. As such, the Tax Auditor can rely upon the classification of Assets and Written down value stated in the Income-tax records available with the assesse. The Tax auditor should mention the fact that he has relied upon the Income-tax records of the assesse in respect of the information regarding the classification of assets and WDV of the existing assets.

Clause 18

Action Points
➢ Based on all relevant factors, if the Tax auditor comes to the conclusion that the matter relating to classification is not free from doubt or controversy, the tax auditor has to indicate the fact in his report by way of suitable qualification.
➢ Where the tax auditor adopts a system of classification different from the one adopted by the assessee, suitable disclosure should be made regarding the effect thereof.
➢ There may be disputes in the earlier years between the assessee and the Income-tax Department regarding classification, rate of depreciation etc. in respect of which suitable disclosure should be given depending upon the facts and circumstances of the case. Further, if there is any dispute with regard to the classification of an asset in a particular block or the rate of depreciation applied, and the tax auditor has a different view as regards the system of classification adopted by the assessee, he has to mention the same, along with the workings and effect thereof, in his observations in Form No.3CA/3CB.
➢ It will, therefore, be advisable to put a suitable note, in the observations Para in Form No. 3CA or 3CB with regard to those items in respect of which disputes for the earlier years are not resolved up to the date of giving the audit report and it should be clarified that the amount of depreciation allowable may change as a result of any decision which may be received after the audit report is given.

Clause 18 – Observations of QRB

Observations
➢ In many cases, the details of additions/ deletions reported in Tax Audit Report were not in line with the figures of additions/ deletions disclosed in the Audited financial statements. The tax Auditor may prepare a reconciliation statement for his own records.
➢ A separate column has been provided for reporting, the *'amount of adjustment on account of Exchange Fluctuation (due to change in rate of exchange, if any)'* under the column *'Additions'*. In few cases, the said amount was not shown in the Tax audit report e-filing utility while the same was reported in the annexure attached and uploaded with the Tax audit report. The reported difference observed is not tenable.
➢ In some reports, in respect of *'additions'* to the block of assets, *'date of purchase'* and *'date of put to use'* were reported as same in respect of each item under each block of asset purchased, which is practically not possible in all the cases.
➢ Likewise, in respect of *'deductions'* from the block of assets, *'date of sale'* reported were same in respect of each item under each block of asset sold, which again is practically not possible in all the cases.
➢ In certain cases, single consolidated amount was disclosed at the end of each half part of the financial year as date of addition, instead of actual date of addition of each asset of the block.

Clause 30

Details of any amount borrowed on hundi or any amount due thereon (including interest on the amount borrowed) repaid, otherwise than through an account payee cheque [Section 69D]

- Details of the amount borrowed on hundi (including interest on such amount borrowed) and details of repayment of such borrowings otherwise than by an account payee cheque, are required to be indicated under this clause.
- For this purpose, the tax auditor should obtain a complete list of borrowings and repayments of hundi loans otherwise than by account payee cheques and verify the same with the books of account.
- There will be practical difficulties in verifying the loan taken or repaid on hundi by account payee cheque. In such cases, the tax auditor should verify the borrowing/repayments with reference to such evidence which may be available and in the absence of conclusive or satisfactory evidence, the auditor may obtain suitable certificate/ management representation in this regard.

Sec. 69D vs Sec. 269SS/269T

- Section 69D is applicable only in case of borrowings and repayments by way of Hundis. Whereas, Section 269SS and 269T cover all borrowings/ repayments in aggregate and excess of Rs. 20,000.

Clause 30A

Whether primary adjustment to transfer price, as referred to in sub-section (1) of section 92CE, has been made during the previous year? [Yes/No]
➢ If yes, please furnish the following details:—
➢ Under which clause of sub-section (1) of section 92CE primary adjustment is made?
➢ Amount (in Rs.) of primary adjustment:
➢ Whether the excess money available with the associated enterprise is required to be repatriated to India as per the provisions of sub-section (2) of section 92CE? (Yes/No)
➢ If yes, whether the excess money has been repatriated within the prescribed time (Yes/No)
➢ If no, the amount (in Rs.) of imputed interest income on such excess money which has not been repatriated within the prescribed

Clause 30A

Action Points:
This clause requires reporting of primary adjustments to the taxable income and various other details, for the purpose of making secondary adjustments under section 92CE. Section 92CE, providing for secondary transfer pricing adjustments, requires making of a secondary adjustment in certain cases where primary transfer pricing adjustments have been made. As per sub-section (1) of section 92CE, the secondary adjustment is required in the following cases where primary transfer pricing adjustment has been:
(i) made by the assessee of his own accord in his return of income;
(ii) made by the Assessing Officer and accepted by the assessee;
(iii) determined under an Advance Pricing Agreement entered into by the assessee under section 92CC on or after 1st day of April 2017;
(iv) made as per Safe Harbour Rules framed under section 92CB; or
(v) arising as a result of a resolution of an assessment under Mutual Agreement Procedure under a double taxation avoidance agreement (DTAA) entered into under section 90 or 90A

Clause 30A

Action Points:
➢ Identify amount of Primary adjustment to transfer price u/s 92CE(1) has been made during the previous year?
➢ Verify the computation of excess money or part thereof arrived based on difference between ALP determined at primary adjustments and which the international transaction has actually been undertaken?
➢ Verify whether the excess money or part thereof has been repatriated to India within the prescribed time limit? If not, then examine the computation of imputed interest on excess money as per Rules 10CB(3)?

Clause 30B

Whether the assessee has incurred expenditure during the previous year by way of interest or of similar nature exceeding one crore rupees as referred to in sub-section (1) of section 94B? [Yes/No]
➢ If yes, please furnish the following details:—
➢ Amount (in Rs.) of expenditure by way of interest or of similar nature incurred
➢ Earnings before interest, tax, depreciation and amortization (EBITDA) during the previous year (in Rs.)
➢ Amount (in Rs.) of expenditure by way interest or of similar nature as per (i) above which exceeds 30% of EBITDA as per (ii) above
➢ Details of interest expenditure brought forward as per sub-section (4) of section 94B - (i) AY; (ii) Amount (in Rs.)
➢ Details of interest expenditure carried forward as per sub-section (4) of section 94B - (i) AY; (ii) Amount (in Rs.)
The excess Interest can be carried forward for 8 Assessment Years

Clause 30C

Whether the assessee has entered into an impermissible avoidance arrangement, as referred to in section 96, during the previous year? - [Yes/No]
➢ If yes, please specify:—
➢ Nature of impermissible avoidance arrangement:
➢ Amount (in Rs.) of tax benefit in the previous year arising, in aggregate, to all the parties to the arrangement
Clause 30C of Form 3CD requires reporting of “Impermissible Avoidance Arrangements” (as referred to in Section 96) entered into by the assessee during the previous year and to quantify the tax benefit arising in the aggregate in the previous year to all the parties to such arrangement
Chapter X-A provides for General Anti Avoidance Rules. This Chapter deals with impermissible avoidance agreement.
An arrangement is to be treated as an IAA, if its main purpose is to obtain tax benefit (“Main Purpose” Test) and it satisfies any one or more of the four tests (“Additional Tests”) specified in Section 96.

Clause 30C

Additional Tests:
The four tests (“Additional Tests”) specified in Section 96 are:
➢ Arrangement creates rights/ obligations which are not ordinarily created between persons dealing at arm’s length, (which may also be referred to as “Abnormal Rights/Obligations”);
➢ Arrangement results, directly or indirectly, in misuse or abuse of the provisions of the Act, (which may also be referred to as “Misuse Test”);
➢ Arrangement lacks commercial substance or is deemed to lack commercial substance, by virtue of fiction created by section 97(which may also be referred to as “Lack of Commercial Substance’ Test”), or
➢ Arrangement entered into or is carried out, by means, or in a manner, which not ordinarily employed for bonafide purposes (which may also be referred to as “Abnormal Manner’ Test”).

Clause 31 (a)

Particulars of each loan or deposit in an amount exceeding the limit specified in Section 269SS taken or accepted during the previous year:
➢ name, address and permanent account number or Aadhaar Number (if available with the assessee) of the lender or depositor;
➢ Amount of each loan or deposit taken or accepted and code of the nature of such amount, as given in Note 1*;
➢ whether the loan or deposit was squared up during the previous year;
➢ maximum amount outstanding in the account at any time during the previous year;
➢ whether the loan or deposit was taken or accepted by cheque or bank draft or use of electronic clearing system through a bank account;
➢ in case the loan or deposit was taken or accepted by cheque or bank draft, whether the same was taken or accepted by an account payee cheque or an account payee bank draft.
(Particulars need not be given in the case of a Government company, a banking company or a corporation established by the Central, State or Provincial Act.)

Clause 31 (a) – Observations of QRB

While reviewing various tax audit reports, it was observed that

- There were cases where the 'name' of the persons/concerns from whom loan had been taken, was not mentioned. Consolidated figures were reported mentioning 'various parties' under this clause instead of details of loan received person-wise.
- In Observations/Qualifications paragraph i.e., clause (3) of Form No.3CA or Clause (5) of Form No.3CB as the case may be, the language used in Para 49.6 of the Guidance Note has been used, as it is, without making the necessary change in respect to "me/us". Since the general language is provided in the Guidance Note, the report in Form No. 3CA/ 3CB should be reworded as applicable.

Clause 31 (b)

Particulars of each specified sum in an amount exceeding the limit specified in section 269SS taken or accepted during the previous year:— (For Transfer of Immovable Property)
➢ name, address and permanent account number or Aadhaar Number (if available with the assessee) of the person from whom specified sum is received
➢ Amount of each loan or deposit taken or accepted and code of the nature of such amount, as given in Note 1*;
➢ whether the specified sum was taken or accepted by cheque or bank draft or use of electronic clearing system through a bank account;
➢ in case the specified sum was taken or accepted by cheque or bank draft, whether the same was taken or accepted by an account payee cheque or an account payee bank draft.
(Particulars need not be given in the case of a Government company, a banking company or a corporation established by the Central, State or Provincial Act.)

Clause 31 (ba)

Particulars of each receipt in an amount exceeding the limit specified in section 269ST, in aggregate from a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion from a person, during the previous year, where such receipt is otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account :-
➢ Name, address and Permanent Account Number or Aadhaar Number (if available with the assessee) of the payer;
➢ Nature of transaction;
➢ Amount of receipt (in Rs.);
➢ Date of receipt;

Clause 31 (bb)

Particulars of each receipt in an amount exceeding the limit specified in section 269ST, in aggregate from a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion from a person, received by a cheque or bank draft, not being an account payee cheque or an account payee bank draft, during the previous year:—
➢ Name, address and Permanent Account Number or Aadhaar Number (if available with the assessee) of the payee;
➢ Amount of receipt (in Rs.);

Clause 31 (bc)

Particulars of each payment made in an amount exceeding the limit specified in section 269ST, in aggregate to a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasions to a person, otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account, during the previous year:-
➢ Name, address and Permanent Account Number or Aadhaar Number (if available with the assessee) of the payee;
➢ Nature of transaction;
➢ Amount of payment (in Rs.);
➢ Date of payment;

Clause 31 (bd)

Particulars of each payment in an amount exceeding the limit specified in section 269ST, in aggregate to a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion to a person, made by a cheque or bank draft, not being an account payee cheque or an account payee bank draft, during the previous year:—
➢ Name, address and Permanent Account Number or Aadhaar Number (if available with the assessee) of the payee;
➢ Amount of payment (in Rs.);
(Particulars at (ba), (bb), (bc) and (bd) need not be given in the case of receipt by or payment to a Government company, a banking Company, a post office savings bank, a cooperative bank or in the case of transactions referred to in section 269SS or in the case of persons referred to in Notification No. S.O. 2065(E) dated 3rd July, 2017)

Clause 31 (c)

Particulars of each repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in Section 269T made during the previous year:-
➢ name, address and Permanent Account Number or Aadhaar Number (if available with the assessee) of the payee;
➢ Amount of each repayment of loan or deposit or any specified advance and code of the nature of such amount, as given in Note 1*;
➢ Maximum amount outstanding in the account at any time during the previous year;
➢ whether the repayment was made by cheque or bank draft or use of electronic clearing system through a bank account;
➢ in case the repayment was made by cheque or bank draft, whether the same was repaid by an account payee cheque or an account payee bank draft.

Clause 31 (c) – Observations of QRB

While reviewing various tax audit reports, it was observed that
➢ In certain cases, repayment of time deposits such as 'fixed deposits' and /or 'term loans' reflecting in Annual report were not reported while the same were required to be reported as per the Guidance Note.
➢ In Observations/Qualifications paragraph i.e., clause (3) of Form No.3CA or Clause (5) of Form No.3CB as the case may be, the language used in Para 51.5 of the Guidance Note has been used, as it is, without making the necessary changes in respect to "me/us". Since the general language is provided in the Guidance Note, the report in Form No. 3CA/ 3CB should be reworded as applicable

Clause 31 (d)

Particulars of repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T received otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year:-
➢ name, address and Permanent Account Number or Aadhaar Number (if available with the assessee) of the payer;
➢ amount of repayment of loan or deposit or any specified advance received otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year.

Clause 31 (e)

Particulars of repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T received by a cheque or bank draft which is not an account payee cheque or account payee bank draft during the previous year:—
➢ name, address and Permanent Account Number or Aadhaar Number (if available with the assessee) of the payer;
➢ repayment of loan or deposit or any specified advance received by a cheque or a bank draft which is not an account payee cheque or account payee bank draft during the previous year.
(Particulars at (c), (d) and (e) need not be given in the case of a repayment of any loan or deposit or any specified advance taken or accepted from the Government, Government company, banking company or a corporation established by the Central, State or Provincial Act).

Clause 31- Note 1

The code for the nature of amount/receipt/repayment is as below — Nature of amount or receipt or repayment and Code:
(1) Cash payment - A (2) Cash receipt - B (3) Payment through non account payee cheque - C (4) Receipt through non account payee cheque - D (5) Transfer of asset - E (6) Transfer of liability - F (7) Conversion of assets - G (8) Conversion of liabilities - H (9) Journal entry [Debit] - I (10) Journal entry [Credit] - J (11) Any other mode [Debit] - K (12) Any other mode [Credit] – L

Clause 32 (a)

Details of brought forward loss or depreciation allowance, in the following manner, to the extent available:

- Serial number
- Assessment year
- Nature of loss / allowance (in Rs.)
- Amount as returned (if the assessed depreciation is less and no appeal pending then take assessed)
- All losses/allowances not allowed under section 115BAA/115BAC / 115BAD/115BAE
- Amount as adjusted by withdrawal of additional depreciation on account of opting for taxation under section 115BAC/ 115BAD/115BAE (to be filled in for assessment year 2021-22 and 2024-25, as applicable)
- Amount as assessed (give reference to relevant order) – (a) Amount & (b) Order u/s & Date Remarks

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 assessee has incurred any speculation loss referred to in Section 73 during the previous year ? if yes, please furnish the details of the same

Clause 32 (d)

- Whether the assessee has incurred any loss referred to in Section 73A in respect of any specified business during the previous year ? if yes, please furnish details of the same

Clause 32 (e):

- In case of a 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, please furnish the details of the same.

Clause 32

Action Points
Details of brought forward loss or depreciation allowance, to the extent available shall be reported in the required format.
The tax auditor should carefully verify:
➢ Income-tax returns filed (including original, revised, or updated returns),
➢ Assessment orders, appellate orders, and orders giving effect thereto, Rectification or revision orders.
➢ Losses which cannot be set-off or carried forward: ➢ Loss from gambling, betting, card games etc. ➢ Loss from an exempt source [for example, share of loss of partnership firm cannot be set-off against any other business income
➢ Details of change in shareholding to be reported since Section 79 of the Income Tax Act, 1961 does not allow the assessee to set-off and carry forward the loss, if there is a change in shareholding by more than 51% (with voting power).
➢ Details of speculation loss incurred, set off, and carried forward must be reported in Form 3CD. It is not necessary that losses are set off against the same speculation business; they may be adjusted against profits from any speculation business

Clause 32 – Observations of QRB

While reviewing various tax audit reports, it was observed that
➢ While reviewing various tax audit reports it was observed that in certain reports the *'section under which assessment order was passed'* and *'date of order'* was not reported.

Clause 33

Section-wise details of deductions, if any, admissible under Chapter VIA or Chapter III (Section 10A, Section 10AA). Please furnish details in the following manner:

- Section under which deduction is claimed

Amounts admissible as per the provision of the Income-tax Act, 1961 and fulfils the conditions, if any, specified under the relevant provisions of Income-tax Act, 1961 or Income Tax Rules,1962 or any other guidelines, circular, etc, issued in this behalf

- The tax auditor must **report section-wise amounts based on audited books**, verify conditions and certificates, and rely on those and also comply with SA-600 when using the work of another auditor.
- For multiple units or branches or SEZs, information should be consolidated using reports of other auditors. Under new tax regimes (115BA, 115BAA, 115BAB, 115BAC, 115BAD, 115BAE), most deductions are disallowed except limited ones like 80JJAA and 80CCD(2).
- Importantly, deductions under Part C of Chapter VIA and Section 10AA are available only if the return is filed within the due date u/s 139(1).

Clause 34 (a)

Whether the assessee is required to deduct or collect tax as per the provisions of Chapter XVII-B or Chapter XVII-BB, if yes please furnish:
➢ Tax deduction and collection Account Number (TAN)
➢ Section
➢ Nature of payment
➢ Total amount of payment or receipt of the nature specified in column (3)
➢ Total amount on which tax was required to be deducted or collected out of (4)
➢ Total amount on which tax was deducted or collected at specified rate out of (5)
➢ Amount of tax deducted or collected out of (6)
➢ Total amount on which tax was deducted or collected at less than specified rate out of (7)
➢ Amount of tax deducted or collected on (8)
➢ Amount of tax deducted or collected not deposited to the credit of the Central Government out of (6) and (8)

Clause 34 (b)

Whether the assessee is required to furnish the statement of tax deducted or tax collected within the prescribed time. If not, please furnish the details:
➢ Tax deduction and collection Account Number (TAN)
➢ Type of Form
➢ Due date for furnishing
➢ Date of furnishing, if furnished
➢ Whether the statement of tax deducted or collected contains information about all transactions which are required to be reported. If not, please furnish the list of details/transactions which are not reported

Clause 34 (c)

Whether the assessee is liable to pay interest under Section 201(1A) or section 206C(7), if yes, please furnish:
➢ Tax deduction and collection Account Number (TAN)
➢ Amount of interest under section 201(1A)/206C(7) is payable
➢ Amount paid out of column (ii) along with date of payment.

Clause 35 (a & b)

Quantitative Details	
(a) In the case of a trading concern, give quantitative details of principal items of goods traded: • opening stock • purchases during the previous year • sales during the previous year • closing stock • shortage / excess, if any	(b) In the case of a manufacturing concern, give quantitative details of the principal items of raw materials, finished products and by-products: **A - Raw Materials:** • opening stock • purchases during the previous year • consumption during the previous year • sales during the previous year • closing stock • yield of finished products • percentage of yield • shortage / excess, if any

Clause 35 (a & b)

Quantitative Details	
B - Finished products • opening stock • purchases during the previous year • quantity manufactured during the previous year • sales during the previous year • closing stock • shortage /excess, if any	**C - By-Products** • opening stock • purchases during the previous year • quantity manufactured during the previous year • sales during the previous year • closing stock • shortage /excess, if any

Clause 35 – Observations of QRB

While reviewing various tax audit reports, it was observed that
➢ Quantitative details of principal items of goods traded were not reported under this clause whereas “Trading” was reported as one of the businesses of the assessee under clause 10a.
➢ In some cases, where closing stock of goods acquired for trading was reported as “NIL”, the quantitative details of opening, purchases & sales made during the year (traceable through financial statements) were not reported under this clause.
➢ In some cases, where the assessee is engaged in “manufacturing”, the ‘percentage of yield’ or ‘shortage/excess’ were not reported. Also, qualification/ observation with regard to the same was not given in the Tax Audit report
➢ In some cases, details of ‘Finished products’ were erroneously reported as ‘raw materials’ under clause 35b(A) instead of clause 35b(B). Also, raw materials, which were clearly traceable from the financial statements, were not reported at all.

Clause 36 A

Whether the assessee has received any amount in the nature of dividend as referred to in sub-clause(e) of clause (22) of section 2
If yes, please furnish the following details:— (i) Amount received (in Rs.); (ii) Date of receipt:

Clause 36 B

Whether the assessee has received any amount for buyback of shares as referred to in sub-clause (f) of clause (22) of section 2?
If yes, please furnish the following details: (i) Amount received (in Rs.) (ii) Cost of acquisition of shares bought back

Clause 37, 38 & 39

Cost Audit – Central Excise Audit – Finance Act
Clause 37 - Whether any cost audit was carried out, if yes, give the 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 any audit was conducted under the Central Excise Act, 1944, if yes, give the details, if any, of disqualification or disagreement on any matter / item / value / quantity as may be reported / identified by the auditor
Clause 39 - Whether any audit was conducted under Section 72A of the Finance Act, 1994 in relation to valuation of taxable services, if yes, give the details, if any, of disqualification or disagreement on any matter / item / value / quantity as may be reported / identified by the auditor **With service tax now subsumed** under GST**, this clause is largely obsolet**e. Reporting is required only in exceptional cases involving legacy pre-GST issues, such as demands raised or adjudicated during the year. The auditor should note any disqualifications or disagreements reported, if applicable.

Clause 37 & 38 – Observations of QRB

While reviewing various tax audit reports, it was observed that

- Representation from the management was relied upon to report as to whether or not there is a disqualification or disagreement on any matter. As per the Guidance Note, copy of the audit report should have been obtained from the management and note of the details of disqualification or disagreement on any matter/item/value/quantity, as the case may be, reported/identified under this clause should have been taken.

- In certain cases, it was mentioned in Clause (3) of Form No.3CA or Clause (5) of Form No.3CB, as the case may be, that the cost audit report is attached herewith. While under this clause 'NO' was reported, both being contradictory statements.

- In certain cases, it was mentioned in Clause (3) of Form No.3CA or Clause (5) of Form No.3CB, as the case may be, that the excise audit report is attached herewith. While under this clause 'NO' was reported, both being contradictory statements.

Clause 40

Details regarding turnover, gross profit, etc., for the previous year and preceding previous year;
➢ Total turnover of the assessee ➢ Gross profit / turnover ➢ Net profit / turnover ➢ Stock-in-trade / turnover ➢ Material consumed / finished goods produced
(The details required to be furnished for principal items of goods traded or manufactured or services rendered)

Clause 40 – QRB Observations

Observations
➢ It was observed that in respect of service sector, “not applicable” should be reported under this clause instead of leaving the same blank.
➢ In certain cases, scrap sale was not considered while arriving at the figure of ‘turnover’ for Tax Audit Report.
➢ However, in certain cases net profit after tax was reported under this clause.
➢ In certain cases, for calculating stock in trade/ Turnover ratio, average stock was taken instead of calculating stock as per the above-mentioned guidance given in the Guidance Note.
➢ In certain cases, the amount of material consumed reported under this clause did not include stores, spare parts and loose tools.
➢ The reporting of said ratios was missing in many reports.
➢ While reviewing various tax audit reports it was observed that there were mismatch of figures in the material consumed reported in respect of preceding previous years. However, nothing was mentioned / reported under Clause (3) of Form No.3CA or Clause (5) of Form No.3CB, as the case may be.

Clause 41

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

Clause 42

Whether the assessee is required to furnish statement in Form No.61 or Form No.61A or Form 61B ? (Yes/No)

If yes, please furnish:
(i) S. No.
(ii) Income-tax Department Reporting Entity Identification Number
(iii) Type of Form
(iv) Due date for furnishing
(iv) Date of furnishing, if furnished
(v) Whether the Form contains information about all details / transactions which are required to be reported.
(vi) If not, please furnish list of the details / transactions which are not reported.

Clause 42

Action Points:
➢ Under Clause 42, the auditor is required to report information related to transactions specified under Form 61, 61A, and 61B, which primarily deal with specified financial transactions (SFTs) in accordance with the Income Tax rules
➢ The auditor should verify whether the assessee has complied with the requirements to furnish these forms, including reporting of high-value transactions, purchase or sale of immovable property, cash deposits, mutual fund or share transactions, and other prescribed transactions. Verification should be based on books of account, bank statements, contract notes, and other relevant documents to ensure the assessee has correctly reported the SFTs
➢ Any omissions, discrepancies, or non-compliance observed during verification should be highlighted in the audit report. The auditor should also ensure consistency with TDS/TCS reporting under Clause 34 and other relevant disclosures in the tax audit report
➢ The objective is to provide a complete, accurate, and verifiable account of all SFTs as required under the Income Tax Act, enabling proper assessment and cross-verification by the tax authorities.

Clause 43

(a) Whether the assessee or its parent entity or alternate reporting entity is liable to furnish the report as referred to in sub-section (2) of section 286 ? - [Yes/No]

(b) If yes, please furnish the following details :

(i) Whether report has been furnished by the assessee or its parent entity or an alternate reporting entity ?

(ii) Name of parent entity

(iii) Name of alternate reporting entity (if applicable)

(iv) Date of furnishing of report

Clause 44

Break-up of total expenditure of entities registered or not registered under the GST:
(i) Sl. No.
(ii) Total Amount of expenditure incurred during the year
(iii) Expenditure in respect of entities registered under GST
(a) Relating to goods or services exempt from GST
(b) Relating to entities falling under Composition scheme
(c) Relating to other registered entities
(d) Total payment to registered entities
(iv) Expenditure relating to entities not registered under GST

Clause 44

Break-up of total expenditure of entities registered or not registered under the GST:

It would be beneficial to maintain working paper of total expenditure in the following manner:

Description *	Amount (Rs.)
Total value of expenditure in P&L for the year (To be reported in column 2)	XXXX
Add: Total value capital expenditure not included in P&L for the year	XXXX
Less: Total value of non-cash charges considered as expenditure	XXXX
Less: Total value of expenditure excluded for being transactions in securities and transactions in money	XXXX
Less: Total value of expenditure excluded by virtue of Schedule III to the CGST Act, 2017	XXXX
Balance being value of expenditure for clause 44	**XXXX**

- *Details of all deductions & additions must be maintained for each sub-entity (GSTIN-wise) of the legal entity.*
- t may be noted that any expenditure that is incurred, wholly and exclusively for business or profession of the assessee qualifies for the deduction under the Act. Registration or otherwise of the payee under the GST Act has no relevance in considering allowability of expenditure.

Tax Audit Seminar

Q & A



Thank You

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