



TAX AUDIT

CLAUSE WISE DISCUSSION

Applicability of Tax Audit S.44AB

- Every person carrying on business whose **Gross Turnover, Receipts Or Total Sales** exceed **Rs. 1 Crore**
- Every person carrying on profession whose **Gross Receipts** exceed **Rs. 25 Lakhs**
- Where profits & gains of person from business are taxable on estimated basis **u/ss. 44AD, 44AE, 44BB or 44BBB** & such person claims his income to be lower than profits & gains so estimated.

Applicability of Tax Audit S.44AB

- **44AD:** An eligible assessee can opt to be assessed on presumptive basis, so long as the sales, turnover or gross receipts from an eligible business do not exceed Rs. 1 crore
- **44AE:** Business of plying, hiring or leasing goods carriages.
- **44BB:** Business of exploration etc. of mineral oil.
- **44BBB:** Business of civil construction etc. in certain turnkey projects.

Tax Audit

Objective:

- To assist Income Tax Department to assess correct income of assessee

Main report:

- **Form 3CA:** Applies where accounts of business or profession of assessee have been **audited** under any other law. Report that Statutory Audit was conducted in pursuance of Statute applicable to assessee.

Tax Audit

Objective:

- **Form 3CB:** Applies in cases where accounts are **not required** to be audited by any other law. Report that Tax Audit is conducted in accordance with **S. 44AB**. Express opinion whether financial statements give **True & Fair** view of-
 - ❖ State of affairs of assessee as represented by **Balance Sheet**
 - ❖ Profit / Loss or Income / Expenditure as represented by **Profit / Loss Account**.

Express opinion whether particulars given in **Form 3CD** are **True & Correct**

Form No.3CA

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

Audit Report under Section 44AB of the Income Tax Act, 1961, in the case where the Accounts of the business or profession of a person have been audited under any other law

I / We report that the Statutory Audit of M/s(Name),(Address),.....(PAN) was conducted by me /us / M/s....., in pursuance of the provisions of the Act, and I/we annex hereto a copy of my /our /their Audit Report dated along with a copy of each of –

- a. the audited Profit and Loss Account/ Income and expenditure Account **for the period beginning from to ending on**
- b. the audited Balance Sheet as at and
- c. documents declared by the said Act to be part of, or annexed to, the Profit and Loss Account/ Income & expenditure Account and Balance Sheet

Form No.3CA

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

Audit Report under Section 44AB of the Income Tax Act, 1961, in the case where the Accounts of the business or profession of a person have been audited under any other law

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

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

a.

b.

Signature & stamp/seal of the signatory

Place:

Name of signatory.....

Date:

Full Address.....

Form No.3CB

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

Audit Report under Section 44AB of the Income Tax Act, 1961, in the case of a person referred to in Clause (b) of Sub-Rule (1) or Rule 6G

(1) I/We have examined the Balance Sheet as on,..... and the Profit and Loss Account/ Income & Expenditure Account for the **period beginning from to ending on**, attached herewith, of **M/s. (Name),(Address),(PAN)**

(2) I/We certify that the Balance Sheet and the Profit and Loss Account/ Income & Expenditure Account are in agreement with the books of account maintained at the Head Office at and branches.

(3)

(a) I/We report the following observations/comments/discrepancies / inconsistencies; if any:

Form No.3CB

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

Audit Report under Section 44AB of the Income Tax Act, 1961, in the case of a person referred to in Clause (b) of Sub-Rule (1) or Rule 6G

(b) Subject to above,

- (A) I/we have obtained all the information and explanations which, to the best of my/our knowledge and belief, were necessary for the purpose of the audit
- (B) In my/our opinion, proper books of accounts have been kept by the head office and branches of the assessee so far as appears from my/our examination of the books.
- (C) In my/our opinion and to the best of my/our information and according to the explanations given to me/us, the said accounts, read with notes thereon, give a true and fair view;
 - (i) in the case of the balance sheet, of the state of the affairs of the assessee as at 31st March,.....and

Form No.3CB

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

Audit Report under Section 44AB of the Income Tax Act, 1961, in the case of a person referred to in Clause (b) of Sub-Rule (1) or Rule 6G

(ii) in the case of the Profit and Loss Account /Income & Expenditure Account, of the Profit/Loss or Surplus/deficit of the assessee for the year ended on that date.

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

(5) In my/our opinion and to the best of my/our information and according to explanations given to me/us, the particulars given in the said Form No.3CD are true and correct ***subject to following:***

a.

b.

Signature & stamp/seal of the signatory

Place:

Date:

¹⁰Name of signatory.....

Full Address.....

Tax Audit Procedures

- Primary responsibility of assessee to prepare relevant information
- Tax Auditor (**TA**) to verify compliance
- TA to-
 - Use professional skill & expertise
 - Apply Generally Accepted Auditing Procedures as applicable for other audits
 - Apply techniques of reasonable test audit checks & compliance tests depending upon internal controls of assessee
 - Follow principles of 'Materiality', 'Prudence' & 'Substance Over Form'

Tax Audit Procedures

- Refer to following publications issued by ICAI-
 - Handbook on Audit Pronouncements : Vol I.A, I.B and II
 - Guidance Notes (GNs) on Audit Reports & Certificates for Special Purposes : Handbook Vol II
 - GN on Tax Audit (Revised 2013)
 - Issues on Tax Audit
 - **SA 700** - Auditor's report on financial statements

Annexure to Tax Audit Report (Form - 3CD)c

Clause 1:

- Name of the Assessee

Clause 2:

- Address

Clause 3:

- Permanent Account Number

Annexure to Tax Audit Report (Form - 3CD)c

Clause 4:

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

Relevant Issue:

If the assessee is liable but is not registered, what will be the auditors' duty in such an event?

Annexure to Tax Audit Report (Form - 3CD)

Clause 5:

- Status

Clause 6:

- *Previous Year - From.....to*

Clause 7:

- Assessment Year

Annexure to Tax Audit Report (Form - 3CD)

Clause 8:

- ***Indicate the relevant clause of Section 44AB under which the audit has been conducted.***

(a) carrying on business shall, if his total sales, turnover or gross receipts, as the case may be, in business exceed or exceeds Rs.1 crore in any P.Y.

(b) carrying on profession shall, if his gross receipts in profession exceeds Rs.25 lacs in any P.Y.

(c) for those carrying business are deemed to be profit & gains under section 44AE, 44BB, 44BBB.

(d) for those carrying business are deemed to be profit & gains under section 44AD.

Annexure to Tax Audit Report (Form - 3CD)

Clause 9:

- Is applicable to Firms & Association of Persons
- Names of partners / members & their profit-sharing ratios [Sub-Clause (a)]
- If there is Changes in the constitution, or profit-sharing, of Partnership / Association since the last day of preceding year, the particulars of such change [Sub-Clause (b)]

Annexure to Tax Audit Report (Form - 3CD)

Clause 9: Relevant Issues

- Will change in remuneration paid to partners, without change in profit-sharing ratio, require any disclosure in tax audit report?
- When partner in representative capacity retires & is admitted as partner in individual capacity, will it amount to change in partnership?

Annexure to Tax Audit Report (Form - 3CD)

Clause 10:

- Nature of Business / Profession (If more than one business / profession is carried out, then nature of every business / profession)
[**Sub-Clause (a)**]
- If there is change in the nature of Business or Profession, the Particulars of such change [**Sub-Clause (b)**]

Annexure to Tax Audit Report (Form - 3CD)

Clause 10: Relevant Issues

- If assessee starts another business whose gross receipts are not material compared to existing business, would it still amount to change in business?
- If assessee manufactures certain products & also sells certain components which are used in manufacture of product, would he be categorized as trader or manufacturer?
- If nature of business covers vast no. of activities, is it sufficient for TA to obtain management representations?

Annexure to Tax Audit Report (Form - 3CD)

Clause 11:

- Whether books of accounts are prescribed as per **Sec. 44AA**, if yes list of books so prescribed? [**Sub-Clause (a)**]
- Books of Accounts (BOA) maintained and ***the address at which BOA are maintained.*** (In case of computerized system of accounting, mention BOA generated by such system. ***If the BOA are not kept at one location, furnish the addresses of locations along with the details of BOA maintained at each location***) [**Sub-Clause (b)**]
- List of BOA examined [**Sub-Clause (c)**]

Annexure to Tax Audit Report (Form - 3CD)

Clause 11: Relevant Issues

- Where stock records are not maintained due to high volume of transactions, what is TA's stand?
- Would post audit print-outs of accounts prepared be sufficient evidence of audit without audit ticks?
- If multiple location accounting is there like SAP, ERP etc. then how will the same be reported

Clause 12:

- Whether the profit and loss account includes any profits and gains assessable on presumptive basis, if yes, indicate the amount and the relevant section (44AD, 44AE, 44Af, 44B, 44BB, 44BBA, 44BBB, Chapter XII-G, first Schedule or any other relevant section).

Annexure to Tax Audit Report (Form - 3CD)

Clause 13:

- Method of Accounting followed in P.Y. [**Sub-Clause (a)**]
- Any change in method of accounting in relation to P.Y. [**Sub-Clause (b)**]
- Details of such change and its effect on profit / loss [**Sub-Clause (c)**]
- Details of deviation in method employed from accounting standards prescribed u/s. 145 & effect on profit / loss [**Sub-Clause (d)**]

Annexure to Tax Audit Report (Form - 3CD)

Clause 13: Relevant Issues

- Does change in accounting policy amount to change in 'method of accounting'?
- If preceding P.Y's accounts were not subject to tax audit, is it sufficient to rely only upon information & explanations provided by client?

Annexure to Tax Audit Report (Form - 3CD)

Clause 14:

- Method of Valuation of Closing Inventory employed in P.Y [**Sub-Clause (a)**]
- Details of deviation of such method of valuation from method prescribed **u/s. 145A** & effect on profit / loss [**Sub-Clause (b)**]
 - ✓ What is objective behind **S. 145A**?
 - ✓ Whether there is any effect on Profit & Loss Account by adopting 'Inclusive Method' as per **S. 145A** ?

Annexure to Tax Audit Report (Form - 3CD)

Clause 14: Relevant Issues

- Where closing inventories are valued at market price (being lower than cost), should excise duty be added to such amount for complying with **S. 145A?**

Annexure to Tax Audit Report (Form - 3CD)

Clause 15:

Give following particulars of Capital Asset converted into Stock-in-Trade-

- Description of Capital Asset [**Sub-Clause (a)**]
- Date of Acquisition [**Sub-Clause (b)**]
- Cost of Acquisition [**Sub-Clause (c)**]
- Amount at which asset is converted into Stock-in-Trade [**Sub-Clause (d)**]

Annexure to Tax Audit Report (Form - 3CD)

Clause 16:

- Amounts not credited to Profit / Loss Account, being -
 - items falling within scope of **S. 28 [Sub-Clause (a)]**
 - pro forma credits, drawbacks, refunds of customs or excise duties or service tax, sales tax or VAT, where same are admitted as due by concerned authorities [**Sub-Clause (b)**]
 - escalation claims accepted during P.Y [**Sub-Clause (c)**]
 - any other items of income [**Sub-Clause (d)**]
 - capital receipt [**Sub-Clause (e)**]

Annexure to Tax Audit Report (Form - 3CD)

Clause 16: Relevant Issues

Capital receipts

- Does phrase 'Capital Receipts, if any' cover capital contribution like gifts, share capital, etc?
- What types of Capital Receipts be indicated under this clause?
- Should Interest on FDs or Other Incomes like rentals etc be mentioned, if reduced from cost of Fixed Assets / CWIP?

Annexure to Tax Audit Report (Form - 3CD)

Clause 16: Relevant Issues

Items falling within scope of S. 28

- Where any foreign tour is conducted for dealers of companies on achieving desired level of sales, what is TA's duty with regard to the company whose director may avail of such tour?

Escalation claims accepted during P.Y

- Where assessee follows cash method of accounting, is it necessary to give details of escalation claims accepted during P.Y?

Annexure to Tax Audit Report (Form - 3CD)

Clause 16: Relevant Issues

Any other Income

- Will incomes from debentures & bonds & gains from sale of capital items which are credited to capital account of assessee (proprietor) be required to be disclosed under **Clause 13**?
- In case of incomes exempt for individuals, should same be disclosed under **Sub-Clause (d)**?

Annexure to Tax Audit Report (Form - 3CD)

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.*

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

Annexure to Tax Audit Report (Form - 3CD)

Clause 17:

Relevant Issue:

- *Project completion v/s percentage completion*
- *Transfer for Section 43CA vis-à-vis Sec 50C*
- *Section 50 v/s Section 43(6)*
- *To be furnished only where consideration is less than stamp duty value.*

Annexure to Tax Audit Report (Form - 3CD)

Clause 18:

- Particulars of depreciation as per Income Tax Act, 1961 for each block of assets in following form-
 - description of asset / block of assets [**Sub-Clause (a)**]
 - rate of depreciation [**Sub-Clause (b)**]
 - actual cost / WDV [**Sub-Clause (c)**]
 - Additions (alongwith date of asset being put to use) / deductions made to block alongwith following adjustments [**Sub-Clause (d)**]-
 - CENVAT claimed & allowed
 - Change in exchange rates
 - Subsidy, grant or reimbursement
 - Depreciation allowable [**Sub-Clause (e)**]
 - WDV at end of P.Y [**Sub-Clause (f)**]

Annexure to Tax Audit Report (Form - 3CD)

Clause 18: Relevant Issues

- Where companies are exempt from Income Tax u/s. **10, 10A or 10B**, should TA give details of depreciation allowable under I T Act?
- What is the duty of TA regarding Foreign Exchange Fluctuation loss on borrowings against fixed assets- **AS 11, S. 43A**?

Annexure to Tax Audit Report (Form - 3CD)

Clause 18: Relevant Issues

- How would TA deal with mistakes in classification of assets in prior P.Ys?
- In cases where depreciation is not provided for & same is not claimed in return of income, should TA state particulars of depreciation under this clause?
- Does assessee have option of charging less depreciation than rates prescribed under I T Act? What is TA's duty in this regard?

Annexure to Tax Audit Report (Form - 3CD)

Clause 18: Relevant Issues

- In case subsidy is received in excess of WDV, how should same be accounted for?
- In case subsidy sanctioned is not received, should same be deducted to arrive at actual cost of asset?
- How should TA ascertain date of asset being put to use? Is an expert's opinion necessary or is certificate from assessee enough in this regard?

Annexure to Tax Audit Report (Form - 3CD)

Clause 19:

Amounts admissible u/s. **32AC**, **33AB**, **33ABA**, **35(1)(i), (ii), (iia), (iii) (iv), 35(2AA), (2AB)**, **35ABB**, **35AC**, **35AD**, **35CCA**, **35CCB**, **35CCC**, **35CCD**, **35D**, **35DD**, **35DDA** & **35E-**

- Debited to Profit / Loss Account (showing amount debited & deduction allowable under each section) [**Sub-Clause (a)**]
- Not Debited to Profit / Loss Account [**Sub-Clause (b)**]

Annexure to Tax Audit Report (Form - 3CD)

Clause 19: Relevant Issues

- In case where audit is required under certain sections to claim deduction & separate auditor is appointed for this purpose, is it enough to rely upon such auditor's report for claiming deduction? What would be TA's stand in case audit report of such auditor is unavailable?
- With regard to **Ss. 35D, 35DD, 35DDA**, etc. where auditors of company have changed, can TA rely on preceding P.Y's computation & audit report or should scrutinize expenses incurred in earlier years as debited to 'Preliminary Expenses'?

Annexure to Tax Audit Report (Form - 3CD)

Clause 20:

- Sum paid to employee as bonus or commission, where same was payable as profits or dividend **u/s. 36(1)(ii) [Sub-Clause (a)]**
- Sums received from **employees** as contributions to any provident or superannuation funds or any other fund u/s. 2(24)(x); due date for payment & actual date of payment to concerned authorities **u/s. 36(1)(va) [Sub-Clause (b)]**

Annexure to Tax Audit Report (Form - 3CD)

Clause 20:

- ***Case laws wherein it was held that due date of payment of employees contribution to welfare funds was due date specified in respective Act governing the same and not the due date of filing return*** - In - ITO 4(3)(3) vs. LKP Securities (ITA No. 638/Mum/2012) (mum. Trib).
- Case laws wherein a contrary view was taken as compared to above caselaw
 - – CIT v. Mark Auto Industries Ltd (2013) 358 ITR 43 (P&H) (HC)
 - - Alom Extrusions Ltd 319 ITR 306 (SC)
 - CIT vs. Hindustan Organics Chemicals Ltd. (Bom. HC) 22/06/2014

Annexure to Tax Audit Report (Form - 3CD)

Clause 20: Relevant Issues

- Is it mandatory to disclose that employers have not deducted / collected Provident Fund, etc. from employees?
- In case of non-corporate assessee following cash system of accounting, if provident fund contributions are not deposited before end of relevant P.Y but remitted within statutory due dates, will same be allowed as deduction?
- How can TA verify details of payments of provident fund, etc. in tax audit of sub-contractor particularly when liability is on main employer?

Annexure to Tax Audit Report (Form - 3CD)

Clause 21:

(a) Please furnish the details of amounts debited to the Profit & loss account, being in the nature of capital, personal, advertisement expenditure etc.

Nature	Sr. No.	Particulars	Amount(Rs.)

Annexure to Tax Audit Report (Form - 3CD)

Nature	Sr. No.	Particulars	Amount(Rs.)
Expenditure incurred at clubs as entrance fees and subscription .as cost for club services and facilities used.			
Expenditure by way of penalty or fine for violation of any law for the time being in force			
Expenditure by way of any other penalty or fine not covered above			
Expenditure incurred for any purpose which is an offence or which is prohibited by law			

Annexure to Tax Audit Report (Form - 3CD)

Clause 21:

(b) Amount inadmissible under section 40(a)

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

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

(date of payment, amount of payment, nature of payment, name & address of 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)-

(date of payment, amount of payment, nature of payment, name & address of payee, amount of tax deducted)

Annexure to Tax Audit Report (Form - 3CD)

Clause 21:

- Amount inadmissible under section 40(a)

(ii) As payment to non-resident referred to in sub clause (ia)

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

(date of payment, amount of payment, nature of payment, name & address of 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)-

(date of payment, amount of payment, nature of payment, name & address of payee, amount of tax deducted, amount out of tax deducted, deposited, if any)

Annexure to Tax Audit Report (Form - 3CD)

Clause 21:

- Amount inadmissible under section 40(a)
 - (ii) As payment to non-resident referred to in sub clause (ia)*
 - *DCIT vs. Chandabhoy & Jassobhoy, 17 taxmann.com 158 (Mum. ITAT)* wherein it was held that provisions of sec. 40(a)(ia) can be invoked only in event of non-deduction of tax at source but not for lesser deduction of tax at source
 - Can we rely on CA certificate for foreign remittances or should we decide on each & every foreign payments based on underlying documents/ agreements?

Annexure to Tax Audit Report (Form - 3CD)

Clause 21:

- Amount inadmissible under section 40(a)

(iii) under sub-clause (ic): sum paid on account of FBT

(iv) under sub-clause (iia): sum paid on account of Wealth tax

(v) under sub-clause (iib): amount paid by way of royalty, license fee, service fee, privilege fee, service charge or any other fee or charge, by whatever name called, which is levied exclusively on or which is appropriated, directly or; indirectly, from a SG undertaking by the SG.

(vi) under sub-clause (iii): amount chargeable under the head “Salaries” payable outside india or to a non-resident

(date of payment, amount of payment, name & address of the payee)

Annexure to Tax Audit Report (Form - 3CD)

Clause 21:

- Amount inadmissible under section 40(a)

(vii) under sub-clause (iv): payment to a provident or any other fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to secure that tax shall be deducted at source from any payments made from the fund which are chargeable to tax under the head “Salaries”

(viii) under sub-clause (v): any tax actually paid by an employer referred to in clause (10CC) of Section 10.

Annexure to Tax Audit Report (Form - 3CD)

Clause 21:

- Amounts debited to Profit / Loss, being-
 - Amounts inadmissible u/s. **40(b) / 40(ba)** & computation thereof, by way of [**Sub-Clause (g)**]-
 - Interest
 - Salary
 - Bonus
 - Commission or remuneration

Annexure to Tax Audit Report (Form - 3CD)

Clause 21:

- Amounts debited to Profit / Loss, being-

- ***Disallowance/deemed income u/s 40A(3)***

(A) On the basis of the examination of BOA and other relevant documents / evidence, whether the expenditure covered u/s. 40A(3) read with rule 6DD were made by account payee cheque drawn on a bank or account payee bank draft.

(B) On the basis of the examination of books of account and other relevant documents/evidence, whether the payment referred to in section 40A(3A) read with rule 6DD were made by account payee cheque drawn on a bank or account payee bank draft. **[sub-clause(h)]**

Annexure to Tax Audit Report (Form - 3CD)

Clause 21:

▪ Amounts debited to Profit / Loss, being-

▪ ***Disallowance/deemed income u/s 40A(3)***

~~Whether a certificate has been obtained from the assessee regarding payments relating to any expenditure covered under section 40A (3) that the payments were made by account payee cheques drawn on a bank or account payee bank draft, as the case may be~~

Annexure to Tax Audit Report (Form - 3CD)

Clause 21:

- Provision for gratuity not allowable u/s. **40A(7)** [**Sub-Clause (i)**]
- Any sum paid as employer not allowable u/s. **40A(9)** [**Sub-clause (j)**]
- Particulars of contingent liability [**Sub-Clause (k)**]
- Deduction inadmissible as per **S. 14A** relating to expenditure pertaining to Income not forming part of Total Income [**Sub-Clause (l)**]
- Amount inadmissible under **proviso to S. 36(1)(iii)** [**Sub-Clause (m)**]

Annexure to Tax Audit Report (Form - 3CD)

Clause 21:

Amount of deduction inadmissible in terms of **Sec. 14A**

Sec. 14A-

- Disallowance of 'expenditure incurred in relation to income which does not form part of total income' (**Sec. 14A expenses**)
- AO is empowered to determine amount inadmissible as per **R. 8D** only if not satisfied with correctness of –
 - assessee's claim having regard to accounts of assessee, or
 - assessee's claim of NIL expenditures incurred **u/s. 14A**
[**Sub-secs. (2) &(3) r.w.r 8D(1)**]

Annexure to Tax Audit Report (Form - 3CD)

Clause 21:

Interest inadmissible under proviso to **S. 36(1)(iii)**

Proviso to **S. 36(1)(iii)** disallows 'Interest' paid -

- in respect of capital borrowed
- for acquisition of assets
- for extension of existing business / profession
- for any period from date of borrowing till date of put to use of asset

Annexure to Tax Audit Report (Form - 3CD)

Clause 22:

Amount of interest inadmissible under **S. 23 of Micro, Small & Medium Enterprises Development Act, 2006**

▪ **Micro Enterprise:**

- In case of enterprise engaged in manufacture or production of goods pertaining to any industry specified in **SCH I Industries (Development and Regulations) Act 1951**. Investment in Plant and Machinery does not exceed **Rs. 25.00 Lacs**
- In case of Service Enterprise, investment in equipment does not exceed **Rs. 10.00 Lacs**

Annexure to Tax Audit Report (Form - 3CD)

Clause 22:

Amount of interest inadmissible under **S. 23** of **Micro, Small & Medium Enterprises Development Act, 2006**

▪ **Small Enterprise:**

- Incase of enterprise engaged in manufacture or production of goods pertaining to any industry specified in **SCH I Industries (Development and Regulations) Act 1951**. Investment in Plant and Machinery is more than **Rs.25.00 Lacs but does not exceed Rs. 5.00 Crore**.
- Incase of Service Enterprise, investment in equipment is more than **Rs. 10.00 Lacs does not exceed Rs. 2.00 Crore**

Annexure to Tax Audit Report (Form - 3CD)

Clause 22:

Amount of interest inadmissible under **S. 23 of Micro, Small & Medium Enterprises Development Act, 2006**

▪ **Medium Enterprise :**

- In case of enterprise engaged in manufacture or production of goods pertaining to any industry specified in **SCH I Industries (Development and Regulations) Act 1951**. Investment in Plant and Machinery is more than **Rs. 5.00 Crore but does not exceed Rs. 10.00 Crore**
- In case of Service Enterprise, investment in equipment is more than **Rs. 2.00 Crores but does not exceed Rs. 5.00 Crore**

Annexure to Tax Audit Report (Form - 3CD)

Clause 22:

Amount of interest inadmissible under **S. 23 of Micro, Small & Medium Enterprises Development Act, 2006**

- **MSME Act** lays down that an interest payable or paid by the buyer, under or in accordance with the provisions **Sec 23** of the Act, shall not for the purpose of the computation of income under Income Tax Act,1961 be allowed as a deduction.

Annexure to Tax Audit Report (Form - 3CD)

Clause 23:

- Particulars of payments made to persons specified **u/s. 40A(2)(b)**

Relevant Issues

- Are payments made of capital nature to persons covered **u/s. 40A(2)(b)** to be reported under this clause?
- How can TA ascertain details regarding persons covered **u/s. 40A(2)** & how can transactions with such persons be verified?

Annexure to Tax Audit Report (Form - 3CD)

Clause 24:

- Deemed profit under section
 - 32AC - Deduction of 15% of investment in new plant & machinery exceeding Rs.100 crore.
 - 33AB – Profit from tea, coffee and rubber business
 - 33ABA – Profit from business of extraction or production of petroleum or natural gas.
 - 33AC – Profit from business of operating ships

Annexure to Tax Audit Report (Form - 3CD)

Clause 25:

- Amount of profit chargeable to tax **u/s. 41** & computation thereof

Relevant Issues

- Where liability becomes time barred but is not written-back by debtor, would it still be treated as cessation of liability? If yes, would it be treated as income **u/s. 41**?
- In case of refund of excise duty / sales tax, can **S. 41** be invoked, if matter is pending in appeal before higher authority?
- If any liability has been disallowed earlier **u/s. 43B, 40(a)(i) / 40(a)(ia)**, etc, whether to be disclosed **u/s. 41**?

Annexure to Tax Audit Report (Form - 3CD)

Clause 26:

- In respect of any sum referred to in **Clauses (a), (b), (c), (d), (e) or (f) of S. 43B**, liability for which-
 - Pre-existed on first day of P.Y but was not allowed in assessment of preceding P.Y & was-
 - Paid during P.Y
 - Not paid during P.Y [**Sub-Clause (i A)**]
 - Was incurred in P.Y & was-
 - Paid on or before due date for furnishing returns of P.Y **u/s. 139 (1)**
 - Not paid on or before due date [**Sub-Clause (i B)**]
- State whether sales tax, customs duty, excise duty or any other indirect tax, levy, cess, impost etc. is passed through profit / loss account

Annexure to Tax Audit Report (Form - 3CD)

Clause 26: Relevant Issues

- Is profession tax liability required to be reported **u/s. 43B**?
- Where taxes, duties, etc. referred to in **S. 43B** are paid after tax audit is completed but before due date of filing returns, how should same be dealt with by TA?

Annexure to Tax Audit Report (Form - 3CD)

Clause 27:

- Amount of *CENVAT* Credit utilized during P.Y. & treatment in profit / loss account & treatment of *CENVAT* Credit outstanding [**Sub-Clause (a)**]
- Particulars of prior period Income / Expenditure credited / debited to Profit / Loss Account [**Sub-Clause (b)**]

Annexure to Tax Audit Report (Form - 3CD)

Clause 27: Relevant Issues

CENVAT Credit

- Where CENVAT Credit as per assessee's books is reconciled with Credit as per Excise Department, which entries are to be considered under this clause?

Prior-Period Items

- Where particular item is considered as prior period item by TA but not by statutory auditor, what is TA's duty in this respect?
- How should sales tax refund determined as result of order passed in last month of preceding P.Y but received in current P.Y, be treated?
- How should claim made for short supply of RM in preceding P.Y, settled in this P.Y, be treated?
- Wage disputes started in preceding P.Y but settled in current P.Y-Whether increase in wages pertaining to earlier P.Ys paid in current P.Y should be disclosed as prior period item?

Annexure to Tax Audit Report (Form - 3CD)

Clause 28:

- *Whether during the previous year the assessee has received any property, being share of a company not being a company in which the public are substantially interested, without consideration or for inadequate consideration as referred to in section 56(2)(viia).*
 - *Relevant to Company & Firms*

Annexure to Tax Audit Report (Form - 3CD)

Clause 29:

- *Whether during the previous year the assessee received any consideration for issue of shares which exceeds the FMV of the shares as referred to in section 56(2)(viib).*
 - *Relevant for Company Assesseees.*

Annexure to Tax Audit Report (Form - 3CD)

Clause 30:

- Amount borrowed on hundi (including interest thereon) repaid other than through account payee cheque (section 69D)

Annexure to Tax Audit Report (Form - 3CD)

Clause 31:

- Particulars of each loan / deposit exceeding limits specified **u/s. 269SS** taken or accepted during P.Y-
 - Name, address & PAN of lender / depositor
 - Amount of loan / deposit
 - Whether loan / deposit was squared up during P.Y
 - Maximum amount outstanding at any time in P.Y
 - Whether loan / deposit was taken / accepted otherwise than by account payee cheque or account payee bank draft [**Sub-Clause (a)**]

Annexure to Tax Audit Report (Form - 3CD)

Clause 31:

- Particulars of each loan / deposit repaid exceeding limits specified **u/s. 269T** during P.Y-
 - Name, address & PAN of payee
 - Amount of repayment
 - Maximum amount outstanding at any time during P.Y
 - Whether repayment was made otherwise than by account payee cheque or account payee bank draft [**Sub-Clause (b)**]
- Whether the taking or accepting loan or deposit or repayment of the same were made by account payee cheque drawn on bank or account payee bank draft based on the examination of BOA and other relevant documents.

Annexure to Tax Audit Report (Form - 3CD)

Clause 31:

- ~~■ Whether a certificate has been obtained from the assessee regarding taking or accepting loan or deposit, or repayment of the same through an account payee cheque or an account payee bank draft [Yes/No].~~

(The particulars (i) to (iv) at (b) and the Certificate at (c) above need not be given in the case of a repayment of any loan or deposit taken or accepted from Government company, banking company or a corporation established by a Central, State or Provincial Act.)

Annexure to Tax Audit Report (Form - 3CD)

Clause 31: Relevant Issues

- What are reporting requirements in case where deposit is received along with interest by other than account payee cheque or draft?
- Where current account is maintained for sister concern in respect of purchase of goods, cheque received, etc., how should same be approached by TA?
- What is treatment of booking amount received against sale of goods?
- Where asset is purchased under hire purchase finance, payment for which is made by account payee cheque by financier to supplier, is such loan taken by assessee in infringement of **S. 269SS**?
- Does **S. 269SS** include loans from finance companies & co-operative banks?

Annexure to Tax Audit Report (Form - 3CD)

Clause 31: Relevant Issues

- Where payment to creditor is made by sister concern of assessee, will same be required to be reported under this clause?
- Where repayment of loan is made by crossed cheque to creditor of assessee's lender, will same be covered under this clause?
- Where in loan account there is no transaction apart from interest to be paid & TDS on such interest due, should same be reported under this clause?
- Where creditors for supplies are converted into unsecured loans, what are reporting requirements?
- Current account loans taken & repaid on different dates during P.Y, should same be disclosed in respect of each credit entry under this clause?

Annexure to Tax Audit Report (Form - 3CD)

Clause 31: Relevant Issues

- Where assessee makes payments of LIC Premium or Advance Tax on behalf of its depositors in account payee cheque of amounts exceeding limits specified in **S. 296T**, would same be required to be disclosed?
- What is position if transfer entries are made in books as authorized by letter of depositor?
- Opening balance of loan account is Rs. 1 lakh & only Rs. 10,000 has been accepted during P.Y, should same be reported?
- Opening balance of loan account is Rs. 1 lakh & there absolutely no movement in account either by way of further acceptance / repayment or interest during P.Y, should same be reported?
- Is any comment required from TA in respect of contravention of provisions of **Ss. 69D, 269SS & 269T**?

Annexure to Tax Audit Report (Form - 3CD)

Clause 32:

- Details of brought forward loss or depreciation allowance, in following manner [**Sub-Clause (a)**]-

Serial No	Assessment Year	Nature of Loss / Allowance (in Rs.)	Amount as returned (in Rs.)	Amount as assessed (give reference to relevant order)	Remarks
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- Where change in shareholding of company has taken place in P.Y due to which losses incurred in preceding P.Ys cannot be carried forward as per **S. 79 [Sub-Clause (b)]**

Annexure to Tax Audit Report (Form - 3CD)

Clause 32:

- *Whether the assessee has incurred any speculation loss referred to in section 73 during the previous year [Sub-Clause (c)]*
- *Whether the assessee has incurred any loss referred to in section 73A in respect of any specified business during the previous year. [Sub-Clause (d)]*
- *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. [Sub-Clause (e)]*

Annexure to Tax Audit Report (Form - 3CD)

Clause 32: Relevant Issues

- Where assessments are in various stages of litigation, is it correct to merely state that ‘information is not readily available & hence not furnished’?
- How should TA certify amounts of brought forward losses / depreciation, where records of earlier years are not produced? In such cases, what safeguards are necessary?

Annexure to Tax Audit Report (Form - 3CD)

Clause 33:

- Section-wise details of deductions admissible under **Chapter VI-A** or **Chapter III (Section 10A, Section 10AA)**

Section under which deduction is claimed	Amounts admissible as per the provision of the Income Tax Act, 1961 and fulfills 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.

Annexure to Tax Audit Report (Form - 3CD)

Clause 33:

Relevant Issues

- Can TA rely on certificates issued by professionals other than CAs?
- Where payments qualifying for deduction **u/s. 80D** etc. might not have been paid out of business income but personal income, should same be disclosed?
- Where in preceding P.Y, admissibility of deductions claimed **u/ss. 80-I, 80-IA**, etc. are not questioned & allowed from return of income, is TA required to verify allowability of same?

Annexure to Tax Audit Report (Form - 3CD)

Clause 34:

- Whether the assessee is required to deduct or collect tax as per the provisions of Chapter XVII-B or Chapter *XVII-BB*.

Tax deduction and collection account No. (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	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 CG out of (6) & (8)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
					81				

Annexure to Tax Audit Report (Form - 3CD)

Clause 34:

- Whether the assessee has furnished the statement of tax deducted or tax collected within the prescribed time.

Tax deduction and collection Account No. (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
(1)	(2)	(3)	(4)	(5)

Annexure to Tax Audit Report (Form - 3CD)

Clause 34:

- Whether the assessee is liable to pay interest under section 201(1A) or section 206C(7).

Tax deduction and collection account No. (TAN)	Amount of interest under section 201(1A) or 206C(7) is payable	Amount paid out column(2) along with date of payment
(1)	(2)	(3)

Annexure to Tax Audit Report (Form - 3CD)

Clause 35:

- In case of trading concern, quantitative details of principal goods traded-
 - Opening Stock
 - Purchases during P.Y
 - Sales during P.Y
 - Closing Stock
 - Short / Excess [**Sub-Clause (a)**]
- In case of manufacturing concern, quantitative details of raw materials, finished goods & / or by-products-
 - Opening Stock
 - Purchases during P.Y

Annexure to Tax Audit Report (Form - 3CD)

Clause 35:

- Consumption / Production during P.Y
- Sales during the previous year
- Closing Stock
- Yield of finished products *
- Percentage of yield
- Short / Excess , if any [**Sub-Clause (b)**]

*Information may be given to the extent available; applies to raw materials only

Annexure to Tax Audit Report (Form - 3CD)

Clause 35: Relevant Issues

- How must quantitative details be disclosed in case of retail traders where there are variety of items traded?
- Will TA be justified in conducting his audit in proper manner if he accepts MRs regarding quantitative details of items, in case there is no mechanism to record stock?
- How should TA report in case of civil contractor or construction company under this clause?

Annexure to Tax Audit Report (Form - 3CD)

Clause 35: Relevant Issues

- Where assessee was not valuing work-in-progress because processing time was minimal, how should TA report this issue under this clause?
- In case where units of raw materials & closing stock are not same, how should yield & shortage / excess of stock be measured?
- Are assesseees rendering technical services required to maintain quantitative details of drawing materials like tracing papers, etc?

Annexure to Tax Audit Report (Form - 3CD)

Clause 36:

In case of domestic company , details of tax on distributed profits **u/s.**

115-O in following form-

- Total amount of distributed profits [**Sub-Clause (a)**]
- *Amount of reduction as referred to in section 115-O(1A)(i) [Sub-Clause (b)]*
- *Amount of reduction as referred to in section 115-O(1A)(ii) [Sub-Clause (c)]*
- Total tax paid thereon [**Sub-Clause (d)**]
- Dates of payment with amounts [**Sub-Clause (e)**]

Annexure to Tax Audit Report (Form - 3CD)

Clause 36: Relevant Issues

- Where tax audit is completed after dividend is declared but before dividend distribution tax is paid, will it be sufficient compliance to report on dividend declared in preceding P.Y. but paid in current P.Y.?

Annexure to Tax Audit Report (Form - 3CD)

Clause 37:

- Enclose a copy of Cost Audit Report, if any

Clause 38:

- Enclose a copy of Excise Audit Report, if any

Clause 39:

- ***Whether any audit was conducted under section 72A of the Finance Act, 1994 in relation to valuation of taxable services. Finance Act 1994 in relation to valuation of taxable services, if yes, give the details, if any, of disqualification or disagreement on any matter as may be identified by the auditor.***

Annexure to Tax Audit Report (Form - 3CD)

Clause 40:

■ Calculate following ratios:

- ***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.)

Annexure to Tax Audit Report (Form - 3CD)

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 alongwith details of relevant proceedings.*

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