SICASA Seminar on

Tax Audit

By

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Objectives

- To ensure that the books of account and other records of the assessee are properly maintained.
- To ensure that the records faithfully reflect the correct income of the tax-payer and claims for deduction are correctly made.
- To facilitate administration by proper presentation of accounts before the tax authorities and to save Assessing Officer's time in carrying out routine verification.
- To ensure that the revenue authorities are provided with audited financial statements along with the relevant data and information for assessment.

Applicability

According to Sec.44AB, tax audit is compulsory for a person carrying on any business or profession if:-

In the case of a business, its total sales, turnover or gross receipts in the previous year *exceed Rs.40Lakhs* , or

In the case of a profession, its gross professional receipts in the previous year *exceed Rs. 10Lakhs* , or

In the case of business, its profits and gains from the business are deemed to be profits and gains of such person under sec.44AD, 44AE, 44AF, 44BB or 44BBB as the case may be,

and *he claims his income to be lower than the presumptive income* deemed under the respective sections.

- ***BUSINESS / PROFESSION***
- ***TOTAL SALES, TURNOVER GROSS RECEIPTS***
- ***GROSS RECIEPTS FROM PROFESSION***

TURNOVER

On basis of various pronouncements of the institute, turnover can be interpreted as follows:

- Trade discount, return inwards, price adjustments and cancellation of bills will be excluded from sales.
- Cash discount, commission bad debts written off, etc. are not to be excluded from sales and should be separately debited to the Profit and Loss Account.
- Excise duty or sales-tax is to be included in sales only if it is a part of sale price. It is recovered separately, it is not be treated as part of sales.
- Packing, freight and forwarding charges are to be excluded from sales if these are shown separately, it is not to be treated as part of sales.

GROSS RECIEPTS

- Cash Assistance received or receivable by any person against exports under any scheme of the Government of India;
- interest received by the money lender;
- Commission, brokerage, service and other incidental charges received in the business of chit funds;
- Hire charges and instalments received in the course of hire purchase;
- Insurance claims - except for fixed assets;
- Gross receipts including lease rent in the business of operating lease;
- Lease rent or interest on financing in the business of finance lease .

SEC. 44AD, 44AE, 44AF, 44BB, 44BBB

- Sec. 44AD: Special provision for computing profits and gains of business of civil construction, etc.
- Sec. 44AE: Special provision for computing profits and gains of business of plying, hiring or leasing goods carriages
- Sec. 44AF: Special provisions for computing profits and gains of retail business
- Sec. 44BB: Special provision for computing profits and gains in connection with the business of exploration, etc., of mineral oils
- Sec. 44BBB: Special provision for computing profits and gains of foreign companies engaged in the business of civil construction, etc., in certain turnkey power projects

TAX AUDITOR

Status of Auditor	*Eligible to conduct tax audit or not*
• Employee of assessee	NO
• Employee of concern under same management	NO
• A Chartered Accountant who has written the books of accounts	NO
• Partner or employee of a firm which has to get its accounts audited under Sec.44ABA	NO
• Chartered Accountant indebted to the assessee for more than Rs. 10,000/-	NO
• Internal Auditor of the company who is an employee	NO
• Internal Auditor of the company in his professional capacity	NO
• A Chartered Accountant/ Firm appointed as tax consultants of assessee	YES
• Statutory Auditor of assessee company	YES

- ***DUE DATE***

- ***PENALTY***

PROFITS AND GAINS FROM BUSINESS / PROFESSION

CHARGEABILITY [S.28]

U/s 28, the following income is chargeable to tax under the head "Profits and gains of business and profession":

- Profits and gains of any business or profession;
- Any compensation or other payments due to or received by any person specified in section 28(ii);
- Income derived by a trade professional or similar association from specific services performed for its members;
- The value of any benefit or perquisite, whether convertible into money or not arising from business or the exercise of a profession;
- Any profit on transfer of Duty Entitlement Pass Book Scheme;
- Any profit on the transfer of the Duty free replenishment certificate;
- Export incentive available to exporters;
- Any interest salary bonus, commission or remuneration received by a partner from firm;
- Any sum received for not carrying out any activity in relation to any business or not to share any know-how, patent, copyright, trademark, etc.;
- Any sum received under a Keyman insurance policy including bonus;
- Profits and gains of managing agency;
- And income from speculative transaction.

ADMISSIBLE DEDUCTIONS

1. SPECIFIC DEDUCTIONS

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- **[Sec.30]** Rent, rates, repairs and insurance for buildings.
- **[Sec.31]** Repairs and insurance of Machinery, Plant and Furniture.
- **[Sec.32]** Depreciation :-
  - ***Additional Depreciation @20% - new plant & machinery used for manufacture.***
  - ***Assets used for < 180 days depreciation restricted to 50%***
- **[Sec.33AB]** Tea/Coffee/Rubber Development account
- **[Sec.33ABA]** Site restoration fund - production of petroleum/natural gas in India.

Profits and Gains of Business or Profession

- **[Sec.35]** Expenditure on Scientific Research
- **[Sec.35ABB]** Amortization of Telecom License fees
- **[Sec.35AC]** Expenditure on eligible projects or scheme.
- **[Sec.35CCA]** Payment to associations and institutions for carrying out Rural Development Programme
- **[Sec.35D]** Amortization of Preliminary Expense.
- **[Sec.35DD]** Amortization of Expenditure in case of Amalgamation / Demerger
- **[Sec35DDA]** Amortization of Expenditure under Voluntary Separation Scheme
- **[Sec.35E]** Amortization of Expenditure for prospecting etc., for development of certain minerals.

B. OTHER DEDUCTIONS [Sec.36]

- Insurance premium for stocks or stores
- Insurance premium paid on employees health by any mode other than cash to GIC or any other insurer and approved by IRDA
- Bonus or commission to employees, irrespective of the limit under the Payment of Bonus Act
- Interest on Borrowed Capital
- Provident and Superannuation Fund contribution
- Approved gratuity fund contributions.
- Sum received from employees and credited to their account in the relevant fund before due date.
- Loss on death or becoming permanently useless of animals
- Bad debt actually written off
- Family planning expenditure
- Contributions towards Exchange Risk Administration Fund set up by PFI
- Banking Cash Transaction Tax

C. General Deductions [S.37]

37(1) Any expenditure,

- not being expenditure of the nature described in sec. 30-36 and
- not being in the nature of capital expenditure; or
- not being in the nature of personal expenditure expenditure of the assessee; and
- laid out or expended wholly or exclusively for the purposes of the business or profession,

shall be allowed in computing the income under the head “Profits and gains of business or profession”.

INADMISSIBLE EXPENSES

- **Amounts not deductible under [Sec.40(a)] :-**

i) Interest, royalty fees for technical services payable outside India [S.40(a)(i)]

iii) Income tax paid [S.40(a)(ic)]

iv) Wealth tax paid [S.40(a)(ii)]

v) Fringe Benefit tax [S.40(a)(iia)]

vi) Salary payable outside India without tax deduction [S.40(a)(iii)]

vii) Provident Fund payments without tax deduction at source [S.40(a)(iv)]

viii) Tax on perquisite paid by the employer [S.40(a)(v)]

Profits and Gains of Business or Profession

- Amounts not deductible in case of partnership firm [S.40 (b)]

BOOK PROFITS		REMUNERATION As a % of book profits
PROFESSIONAL FIRMS	***OTHER FIRMS***	
On the first Rs. 1 lakh or in case of a loss	**On the first Rs.75,000/- or in the case of a loss**	**Rs.50,000 or 90% whichever is higher**
On the next Rs. 1 lakh	**On the next Rs. 75,000 /-**	**60%**
On the balance	**On the balance**	**40%**

- Amounts not deductible in case of AOP/BOI [S.40(ba)]
- Payments made to a relative etc. [S.40A(2)]

- Provision for payment of gratuity to employers. [S.40A(7)]
- Contributions to unrecognized / non-statutory welfare funds [S.40A(9)]
- Amount not deduction in respect of certain unpaid liabilities [S.43B]

FRINGE BENEFIT TAX

Audit reports u/s 44AB

Form No. 3CA

If the accounts of the assessee is audited under any other law

Form No. 3CB

If the accounts of the assessee is **NOT** audited under any other law

Statement of particulars in Form No. 3CD

Form No. 3CD - Part A

1. Name of the assessee
2. Address
3. Permanent Account Number
4. Status "Status" refers to assessee-status-i.e. Individual/HUF/Firm/Company/AOP/BOI/AJP
5. Previous year ended
6. Assessment year

Form No. 3CD - Part B

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

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

Clause 7(a)

- **No need to furnish remuneration or interest to partners. [Para 18.1]**

Clause 7(b)

- **The word "particulars" includes the date/s of change/s also. Dates of changes in salary to partners are also to be mentioned.**
- **This can be verified from partnership deed, minutes etc.**

8

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

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1. **If there is any change in the nature of business or profession the particulars of such change.**

9.

a. Whether books of account are prescribed u/s 44AA, if yes, list of books so prescribed.

b. Books of account maintained (In case books of account are maintained in a computer system, mention the books of account generated by such computer system.)

c. List of books of account examined.

- **CBDT has prescribed books of account only for specified professionals**

Accountancy **Architecture** **Authorized representative** **Company secretary** **Engineering** **Film artist**	**Information Technology** **Interior decoration** **Legal** **Medical** **Technical consultancy**

- Company cannot be a professional

Books of Account to be maintained

- ***By Specified professionals IF* gross receipts > Rs.1,50,000**
  - **Cash book , Journal, Ledger;**
  - Carbon copies of **bills and receipts** serially numbered, where sum exceeds Rs. 25,
  - **Original bills and receipts** for exp. incurred or, where such bills and receipts are not issued and the expenditure incurred < Rs. 50, payment vouchers prepared and signed by the person, unless the cash book contains adequate particulars in respect of the expenditure;
  - **For medical profession,** apart from the above books, a daily case register in Form No.3C and an inventory of stock of drugs, medicines etc. should be maintained.

  By Businessmen and other professionals (not specified above):
  - a) Income > Rs. 1.20 Lacs or
  - b) Total sales, turnover or gross receipt > Rs. 10 Lac

No account books have been prescribed by CBDT in case of above.

10.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 or any other relevant section.)

- **S. 44AD: Civil contractor**
  - 8% of gross receipts or any higher amount [NA if gross receipts > Rs.40 lac]
- **S 44AE: Business of Plying, hiring or leasing goods carriages**
  - Rs.3,500 PM for heavy goods vehicle and Rs.3150 PM for other vehicles or any higher amount [NA if assessee owns > 10 goods carriages any time during PY]
- **S 44AF:Retail Business**
  - 5% of Turn-over or any higher amount [NA if gross receipts > Rs.40 lacs]
- **S 44B:Shipping Business of a Non-Resident**
- **S 44BBB:Foreign cos. Engaged in the Business of civil Construction, etc.,in certain turnkey Power projects**
  - 10 % of amount for specified activities
- **S 44BBA: Operation of aircraft by Non-resident**

11.

1. Method of accounting employed in the previous year
1. Whether there had been any change in method of accounting employed vis-a-vis the method employed in the immediately preceding previous year
1. If answer to (b) above is in the affirmative, give details of such change, and the effect thereof on the profit or loss
1. Details of deviation, if any, in the method of accounting employed in the previous year from accounting standards prescribed under section 145 and the effect thereof on the profit or loss.

- **Clause 11(a)**
  - **Method of Accounting –** Mercantile or Cash
- **Clause 11(b)**
  - Only non-corporate assessees can change their method of accounting from cash to mercantile or *vice-versa.*

11.

1. **Method of accounting** employed in the previous year

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

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

1. Details of deviation, if any, in the method of accounting employed in the previous year from **accounting standards prescribed under section 145** and the effect thereof on the profit or loss.

- **Clause 11(c)**
  - 'Effect thereof on the profit or loss' refers to the effect on the profit or loss as per the P&L a/c. It does not refer to the effect on taxable income.
  - Non-disclosure of a change in accounting policy will have to be reported under clause 11 (d) and not under this clause.
- **Clause 11(d)**

  S.145 (1) requires the assessees to comply with the AS notified u/s 145(2).
  - AS(IT)- I - Disclosure of Accounting Policies (AS-1) and
  - AS(IT)-II - Disclosure of prior period items and extraordinary items and changes in accounting policies (AS-5).

12.

1. Method of valuation of closing stock employed in the previous year

1. Details of deviation, if any, from the method of valuation prescribed u/s
2. 145A, and the effect thereof on the profit or loss

Clause 12(a):

AS -2 -Inventories should be valued at lower of cost and net realisable value

12.

1. Method of valuation of closing stock employed in the previous year

1. Details of deviation, if any, from the method of valuation prescribed u/s 145A, and the effect thereof on the profit or loss

Stock item	Cost price(Rs.)	Market price (Rs.)	Cost or market price, whichever is less(Rs.)
A	600.00	550.00	550.00
B	1,800.00	2,000.00	1,800.00
C	28,700.00	29,540.00	28,700.00
D	52,840.00	17,512.00	17,512.00
Total	83,940.00	49,602.00	48,562.00

(Source: Students guide to income tax By Dr. Vinod K Singhania and Dr. Monica Sighania)

Value of closing stock

Individual method = Rs.48,562 Global method = Rs. 49,602

12.

1. Method of **valuation of closing stock** employed in the previous year

1. Details of **deviation**, if any, from the method of valuation prescribed u/s 145A, and the effect thereof on the profit or loss

The value of stock should include the amount of any tax, duty, cess or fee (by whatever name called) actually paid or incurred by the assessee to bring the goods to the place of its location and condition as on the date of valuation.

This is true even if MODVAT Credit is available.

12A. Give the following particulars of the capital asset converted into stock–in-trade:-

(a) *Description of capital asset;*

(b) *Date of acquisition;*

(c) *Cost of acquisition;*

(d) *Amount at which the asset is converted into stock-in-trade.*

13. Amounts not credited to the profit and loss account, being, -

1. the items falling within the scope of section 28;

1. 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**;

1. **escalation claims** accepted during the previous year;

1. any other item of income;

1. capital receipt, if any

Clause 13:

- Sub-clause (b) and (c) will not apply to an assessee following the cash basis of accounting.

14. 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 :-

1. Description of **asset/block of assets**
2. Rate of depreciation
3. Actual cost of written down value, as the case may be
4. 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: Modified Value Added Tax credit claimed and allowed under the Central Excise rules, 1944, in respect of assets acquired on or after 1st March, 1994,
    1. change in rate of exchange of currency, and
    2. subsidy or grant or reimbursement, by whatever name called

(e) Depreciation allowable

(f) Written down value at the end of the year

For the purpose of classification into blocks – the purpose for which the asset is used is very material

14. 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 :-

1. Description of asset/block of assets
2. Rate of depreciation
3. Actual cost of written down value, as the case may be
4. **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: Modified Value Added Tax credit claimed and allowed under the Central Excise rules, 1944, in respect of assets acquired on or after 1st March, 1994,
   1. change in rate of exchange of currency, and
   2. subsidy or grant or reimbursement, by whatever name called

(e) Depreciation allowable

(f) Written down value at the end of the year

Where any addition was made, the date on which the asset was put to use is to be reported.

14. 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 :-

1. Description of asset/block of assets
2. Rate of depreciation
3. Actual cost of written down value, as the case may be
4. 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: Modified Value Added Tax credit claimed and allowed under the Central Excise rules, 1944, in respect of assets acquired on or after 1st March, 1994,
    1. **change in rate of exchange of currency, and**
    2. subsidy or grant or reimbursement, by whatever name called

(e) Depreciation allowable

(f) Written down value at the end of the year

In case of change in rate of exchange of currency- The extent of addition or reduction will be limited to exchange difference actually paid during the previous year.

14. 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 :-

1. Description of asset/block of assets
2. Rate of depreciation
3. Actual cost of written down value, as the case may be
4. 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: Modified Value Added Tax credit claimed and allowed under the Central Excise rules, 1944, in respect of assets acquired on or after 1st March, 1994,
    1. change in rate of exchange of currency, and
    2. subsidy or grant or reimbursement, by whatever name called

(e) Depreciation allowable

(f) Written down value at the end of the year

The claim for depreciation is mandatory

Clause 14 -	
Regular Depreciation u/s 32(1)(i)/(ii)	***Addition depreciation u/s 32(1)(iia)***
Available in respect of **tangible assets (buildings, machinery, plant and furniture) and intangible assets.**	Available only for **plant and machinery** items **excluding** the following: • **Ships and aircrafts.** • **Machinery/ plant installed in any office, premises/residential, accommodation in the nature of guest house.** • **Office appliances/road transport vehicles.** • **Any plant/machinery whose 100% of actual cost has been allowed as deduction.**
Available in respect of **new as well as second-hand items**	Available only in respect of **new item.**
Rates will be **prescribed % on WDV**	Rate is **20% of actual cost**
Available to **all assesses** across the board	Available only to assesses who **manufacture or produce articles/things**.
Assessee will be allowed depreciation irrespective of whether he claims it or not.	Same

15. Amounts admissible under sections –

33AB, 33ABA, 33AC, 35, 35ABB, 35AC, 35CCA, 35CCB, 35D, 35DD, 35DDA, 35E

(a) debited to the profit and loss account (showing the amount debited and deduction allowable under each section separately);

(b) not debited to the profit and loss account

33AB-Tea/ coffee /rubber development account.	**35D** -Amortisation of certain preliminary expenses
33ABA-Site Restoration Fund	**35DD**-Amortisation of expenditure in case of amalgamation or demerger
35-Expenditure on scientific research	**35DDA-**Amortisation of expenditure incurred under voluntary retirement scheme
35ABB-Expenditure for obtaining licence to operate telecommunication services	**35E**-Deduction for expenditure on prospecting, etc., for certain minerals
35AC-Expenditure on eligible projects or schemes	
35CCA-Expenditure by way of payment to associations and institutions for carrying out rural development programmes	

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

1. Any sum received from employees towards contributions to any provident fund or superannuation fund or any other fund mentioned in section 2(24)(x); and due date for payment and the actual date of payment to the concerned authorities u /s 36(1)(va)

Sec.36(1) provides for deduction of Any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not paid as been bonus or commission.

Sec.2(24)(x) includes within the scope of income any sum received by the assessee from his employees as contribution to any PF or any other Welfare Fund.

Sec36(1)(va) of the act permits deduction of such sum if such sum is credited by the assessee to the employee's account in the relevant fund on or before the due date.

17. Amounts Debited To The Profit And Loss Account, Being :-

1. Expenditure Of Capital Nature;
2. Expenditure Of Personal Nature;
3. Expenditure On Advertisement In Any Souvenir, Brochure, Tract, Pamphlet Or The Like, Published By A Political Party;
4. Expenditure Incurred At Clubs, -
    1. As Entrance Fees And Subscriptions
    2. As Cost For Club Services And Facilities Used

(e)

(I) Expenditure By Way Of Penalty Or Fine For Violation Of Any Law For The Time Being In Force;

1. Any Other Penalty Or Fine:
2. Expenditure Incurred For Any Purpose Which Is An Offence Or Which Is Prohibited By Law;

(f) Amounts Inadmissible Under Section 40(a);

- Any penalty or fine for violation of law is not deductible.
- Unlawful expenditure is also not deductible

S. 40(a) disallows the following.

- Interest, royalty, fees for technical services or other sum chargeable under this Act, which is payable a) outside India; or b) In India to a non-resident

and if in respect of the aforesaid, tax is deductible but tax has not been deducted: or tax has been deducted but after deduction it has not been paid to the Government.

- Payment to a resident in respect of the following are covered -Interest, commission or brokerage, rent, fees for technical or professional services, royalty, and payment to contractors or subcontractors.

In the above cases if assessee fails to deduct tax at source or fails to pay the deducted tax to the government within the prescribed time limit.

- FBT
- Income Tax
- Wealth Tax

- Any payment which is chargeable under the head Salaries, if it is payable a) outside India; or b) in India to a non-resident, and if the tax has not been paid to the Government nor deducted at source.

- Payment to a PF or other fund established for employees benefit, unless proper arrangements of TDS on any taxable payment out of such fund are made

- Tax on perquisite paid by the employer

17. Cont…

(g) Interest, Salary, Bonus, Commission Or Remuneration Inadmissible Under Section **40 (b)/40(ba)** And Computation Thereof;

(h) (A) 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

(B) Amount Inadmissible Under Section 40A(3), Read With Rule 6DD [With Break-up Of Inadmissible Amounts]

(i) Provision For Payment Of Gratuity Not Allowable Under Section **40A(7);**

(j) Any Sum Paid By The Assessee As An Employer Not Allowable Under Section **40A(9);**

(k) Particulars Of Any Liability Of A **Contingent Nature**

(l) Amount Of Deduction Inadmissible In Terms Of **Section 14A** In Respect Of The Expenditure Incurred In Relation To Income Which Does Not Form Part Of The Total Income;

(m) Amount Inadmissible Under The **Proviso To Section 36(1)(iii);**

17A. Amount of interest inadmissible under section 23 of Micro Small and Medium Enterprises development Act,2006

Sec.23 of MSMEDA, 2006 – the amount of interest payable or paid by any buyer under or in accordance with the provisions of this Act shall not be allowable as deduction in the computation of income.

18. Particulars of payments made to persons specified under section 40A(2)(b)

Clause 18:

- Assessee incurs any expenditure in respect of which payment is to be made to any person referred to in Sec40A(2) (b), and the AO is of opinion that such expenditure is excessive or unreasonable having regard to
- the fair market value of the goods, services or facilities for which the payment is made or
- the legitimate needs of the business or profession of the assessee or
- the benefit derived by or accruing to him there from,

So much of the expenditure as is so considered by him to be excessive or unreasonable shall not be allowed as a deduction.

- The tax auditor is only required to give particulars of payment to persons specified under S. 40A(2)(b) under this clause.
- He is not required to give his opinion on the unreasonability/excessiveness of the payments. That is the AO's prerogative.

Specified persons defined u/s 40A(2)(b)

Who has incurred the expenditure (i.e., the assessee)	*To whom the payment is made (i.e., payees specified in Sec 40A(2)(b)*
1.INDIVIDUAL	1. To a relative 2. To a person in whose business, assessee/his relative has substantial interest
2. A FIRM	a) Partner of the firm b) Any relative of the partners c) Any person, in whose business, firm/partner has substantial interest.
3. HUF	1. Any member of the HUF 2. To any relative of any member of HUF 3. Any person in whose business HUF/members of HUF/their relatives have substantial interest.
4. COMPANY	1. Director of the Company 2. Any relative of such director 3. Any person, in whose business, company/its directors/their relatives have substantial interest

19. Amounts deemed to be profits and gains under section 33AB or 33ABA or 33AC

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

Sec.41 (1) –Following receipts are chargeable to tax as business income:

- In any of the earlier years a deduction was allowed to a taxpayer in respect of loss, expenditure or trading liability incurred by the assessee.
- During the current previous year, the tax paye
  - Has obtained a refund of such trading liability or
  - Has obtained some benefit in respect of such trading liability by way of remission or cessation thereof.

This will be taxable in the current year.

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

Sec.41 (2) :

Applicable if an undertaking engaged in the generation or generation and distribution of power claims depreciation on a straight line method with reference to each individual asset.

If such an asset is sold:

If consideration > WDV : consideration – WDV => Profit changeable under PGBP

If consideration > Cost :
consideration – WDV => Profit under P&G
WDV –Cost => changeable under Capital Gain

Example :

- A Ltd, a power sector Co. acquired a generator for Rs. 10 lkhs. The Company claimed depreciation on SLM method for a period of 3 yrs @ 10%. At the 4rth year, generator is sold.

yr	Depreciation	Closing WDV
1	1 lkh	9 lkh
2	1 lkh	8 lkh
3	1 lkh	7 lkh

Case 1: Consideration – 9 lkhs

9 lkh – 7 lkh = 2 lkh – taxable under P&G as balancing charge.

Case 2: Consideration – 12 lkhs

12 lkhs – 7 lkhs = 5 lkhs

Out of 5 lkhs difference, Rs. 3 lkhs being the depreciation is taxable under P&G as balancing charge and the remaining 2 lkhs would be taxable under short term capital gain.

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

Sec.41 (3)-

E.g.

Cost of scientific equipments =Rs. 86000 PY 1997-98

Deduction Claimed u/s 35 = Rs.86,000 AY 1998-99

If the company sells the equipment (without using it for a purpose other than for scientific research) in the PY 2008-09 for Rs. 41,000,

Rs. 41,000 is chargeable to tax for AY 2009-10.

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

Sec.41 (4)-

E.g.

Goods Sold = Rs. 40,000

Written off as Bad debt = Rs. 15,000

Recovered in current year = Rs. 28,000

Amount taxable =Rs.28,000 minus (Rs. 40,000 – Rs 15,000) = Rs. 3,000

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

Sec.41 (4A)-

where any deduction has been allowed with respect to any special reserve created by a financial corporation or public company, any amount subsequently withdrawn shall be deemed to be the profits of that year.

21. *(i) In respect of any sum referred to in clause (a), (b), (c), (d), (e)/ (f) of **section 43B**, the liability for which;

(A) pre-existed on the first day of the previous year but was not allowed in the assessment of any preceding previous year and was:

(a) paid during the previous year;

(b) not paid during the previous year;

(B) was incurred in the previous year and was:

(a) paid on or before the due date for furnishing the return of income of the previous year under section 139(1);

(b) not paid on or before the aforesaid date

(ii) *State whether sales tax, customs duty, excise duty or any other indirect tax, levy, cess, impost, etc., is passed through the profit and loss account.

Sums referred to in Section 43B

1. Tax, duty, cess or fee payable under any law for the time being in force.
2. Employer 's contribution to any PF or any other employer 's welfare fund.
3. Bonus/Commission paid to employee
4. Interest on any loan from any PFC etc in accordance with the T &C of the agreement.
5. Interest on any loan from a scheduled bank in accordance with the T&C agreement.
6. Leave salary

22 (a) Amount of **Modified Value Added Tax credits** **(now Cenvat credits)** availed of or utilised during the previous year and its treatment in the profit and loss account and treatment of outstanding Modified Value Added Tax credits in the accounts

(b) Particulars of income or expenditure of **prior period** credited or debited to the P&L account

23. Details of **<u>any amount</u>** borrowed on hundi or **<u>any amount</u>** due thereon (including interest on the amount borrowed) repaid, otherwise than through an account payee cheque. [Sec.69D]

24 *(a) Particulars of each loan or deposit in an amount exceeding the limit specified in section 269SS taken or accepted during the previous year :-

(i) name, address and permanent account number (if available with the assessee) of the lender or depositor;

(ii) amount of loan or deposit taken or accepted;

(iii) whether the loan or deposit was squared up during the previous year;

(iv) maximum amount outstanding in the account at any time during the previous year;

(v) whether the loan or deposit was taken or accepted otherwise than by an account payee cheque or an account payee bank draft

*(These particulars needs not be given in the case of a Government company, a banking company a corporation established by a Central, State or Provincial Act.)

Clause 24(a)

According to Sec.269.SS

No person shall take or accept from any other person (Depositor) any loan or deposit otherwise than by an account payee cheque or bank draft if:

- The amount of such loan or deposit or aggregate amount >= Rs.20,000 or
- On the date of taking such loan or deposit, any loan or deposit taken earlier by such person from the depositor is remaining unpaid (whether repayment has become due or not), the amount or aggregate amount remaining unpaid >= Rs. 20,000 or
- Aggregate of amounts referred to above >= Rs.20,000

24 *(a) Particulars of each loan or deposit in an amount exceeding the limit specified in section 269SS taken or accepted during the previous year :-

(i) name, address and permanent account number (if available with the assessee) of the lender or depositor;

(ii) amount of loan or deposit taken or accepted;

(iii) whether the loan or deposit was squared up during the previous year;

(iv) maximum amount outstanding in the account at any time during the previous year;

(v) whether the loan or deposit was taken or accepted otherwise than by an account payee cheque or an account payee bank draft

*(These particulars needs not be given in the case of a Government company, a banking company a corporation established by a Central, State or Provincial Act.)

Clause 24(a) –Important Points-

- **Sale proceeds collected by the selling agent (on behalf of his principal) is not a loan or deposit.**
- **Advance received against sale is not a loan or deposit.**
- **Security deposits against contracts, etc. are ‘deposits’.**
- **The entries that relate to transactions with a supplier and customer are not loan or deposits accepted.**
- **If the aggregate loans/deposits in a year (from a singly party) exceed Rs.20,000 but each individual item is less than Rs.20,000 the information will still be required to be given in respect of all such entries starting from the entry when the balance reaches Rs.20,000 or more and until the balance goes down below Rs.20,000.**

24.

(b) Particulars of each repayment of loan or deposit in an amount exceeding the limit specified in section **269T** made during the previous year :-

(i) name, address and permanent account number (if available with the assessee) of the payee;

(ii) amount of the repayment;

(iii) maximum amounts outstanding in the account at any time during the previous year;

(iv) whether the repayment was made otherwise than by account payee cheque or account payee bank draft

(c) 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]

As per Sec.269T-No person shall repay any loan or deposit made with it otherwise than by an account payee cheque or account payee bank draft drawn in the name of the person who has made the loan or deposit if

1. the amount of the loan or deposit together with the interest, if any, payable thereon >= Rs.20,000, or
2. the aggregate amount of the loans or deposits held by such person with the branch of the banking company or co-operative bank or, as the case may be, the other company or co-operative society or the firm, or other person either in his own name or jointly with any other person on the date of such repayment together with the interest, if any, payable on such loans or deposits >= Rs.20,000

25.

(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 (in Rs)*	*Amount as Assessed (give Reference to Relevant order*	*Remarks*

(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 25(a)

- Amount to be stated as per return and assessment orders, appellate orders, revision and rectification orders of **Past AYs**.
- Should be separately given under each head of income under which the loss/depreciation remain unabsorbed.
- In the Remarks column information about pending assessment /appeals / rectification / revision proceedings or delay in filing loss returns may be given.

25.

(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 (in Rs)*	*Amount as Assessed (give Reference to Relevant order*	*Remarks*

(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 25(b)

- Applies only to closely-held companies .
- Provision of S. 79 will not apply in the following cases where a change in the said voting power takes place in a PY as a result of
  - Death of a shareholder;
  - Gift of shares to any relative of the shareholder making such gift; and

.

26. Section-wise details of deductions, if any, Admissible under Chapter VIA

27.

1. Whether the assessee has complied with the provisions of Chapter XVII-B regarding deduction of tax at source and regarding the payment thereof to the credit of Central Government *[Yes/No]*

(b) If the provisions of Chapter XVII-B have not been complied with, please give the following details*, namely:-

(i) Tax deductible and not deducted at all

(ii) shortfall on account of lesser deduction than required to be deducted

(iii) tax deducted late

(iv) tax deducted but not paid to the credit of the Central Government

28.

(a) In the case of a trading concern, give quantitative details of principal items of goods traded :

(i) Opening Stock;

(ii) Purchases during the previous year;

(iv) Sales during the previous year;

(v) Closing Stock;

(vi) Shortage/excess, if any

(b) In the case of a manufacturing concern quantitative details of the principal items of raw materials, finished products and by-products:

A. Raw Materials:

(i) Opening stock;

(ii) Purchases during the previous year;

(iii) Consumption during the previous year;

(iv) Sales during the previous year;

(v) closing stock;

(vi) * yield of finished products;

(vii) * Percentage of yield;

(viii) * Shortage/excess, if any *To the extent available.

B. Finished products/By-products :
(i) opening stock;
(ii) purchase during the previous year;
(iii) quantity manufactured during the previous year;
(iv) sales during the previous year;
(v) closing stock;
(vi) shortage/excess, if any
* information may be given to the extent available.

1. In the case of a domestic company, details of tax on distributed profits under section 115O in the following form :-

(a) total amount of distributed profits;
(b) total tax paid thereon;
(c) dates of payment with amounts

30. Whether any cost audit was carried out, if yes, enclose a copy of the report of such audit [See section 139(9)]

31. Whether any audit was conducted under the Central Excise Act, 1944, if yes, enclose a copy of the report of such audit

1. Accounting ratios with calculations as follows :-

(a) Gross profit/Turnover;

(b) Net profit/Turnover;

(c) Stock-in-trade/Turnover;

(d) Material consumed/Finished goods produced

Place:
Date:

Name:
Address:

Clause32:

- Numerators and denominators used for calculating the ratio should also be specified.
- Ratios have to be given for the business as a whole.

Annexure - I	
PART A	
1. Name of the assessee	
2. Address	
3. Permanent Account Number	
4. Status	Domestic Company in which public are not substantially interested.
5. Previous year ended	
6. Assessment year	
PART B	
Nature of business or profession in respect of every business or profession carried on during the previous year	
CODE	

		Current Year	Preceding Year
Sl. No.	Parameters	2006-2007	2005-2006
1	Paid-up share capital/capital of partner/proprietor		
2	Share Application Money/Current Account of Partner or Proprietor, if any,		
3	Reserves and Surplus/Profit and Loss Account		
4	Secured loans		
5	Unsecured loans		
6	Current liabilities and provisions		
7	Total of Balance Sheet		
8	Gross turnover/gross receipts		
9	Gross profit		
10	Commission received		
11	Commission paid		
12	Interest received		
13	Interest paid		
14	Depreciation as per books of account		
15	Net Profit (or loss) before tax as per Profit and Loss Account		
16	Taxes on income paid/provided for in the books		

Form No. 3CD – Part B