

TAX AUDIT u/s 44AB

- o Due date of filing Income tax return for assessee who is liable to get their books of accounts audited is 30th September.
- **Who has to get his accounts audited compulsorily?**
 - o **A Person carrying on BUSINESS** is required to get his books of account compulsorily audited u/s 44AB if the total sales, turnover or gross receipts in business for the previous year relevant to assessment year **exceed or exceeds Rs. 60 Lakhs** for the Assessment year 2011-12 and 2012-13 (Rs. 1 Crore from the assessment year 2013-14).
 - o **A person carrying on PROFESSION** is required to get his books of account compulsorily audited u/s 44AB, if his gross receipts in profession for the previous year relevant to the assessment year exceeds 15 lakhs for the assessment year 2011-12 and 2012-13 (Rs. 25 lakhs from the assessment year 2013-14).
 - o **A person covered u/s 44AE, 44BB or 44BBB** is required to get his books of account compulsorily audited u/s 44AB if such person claims that the profits and gains from the business are lower than the profits and gains computed under these sections (**IRRESPECTIVE OF THE TURNOVER**)
 - **Only one condition is there i.e. if** such person claims that the profits and gains from the business are lower than the profits and gains computed under these sections
 - o **A person covered u/s 44AD** is required to get his books of account compulsorily audited u/s 44AB if such person claims that the profits and gains from the business are lower than the profits and gains computed in accordance with the provisions of **section 44AD (1)** and if his income **exceeds the maximum amount which is not changeable to tax** (i.e. basic exemption limit).
 - **Two conditions are there**
 - **IF** such person claims that the profits and gains from the business are lower than the profits and gains computed under these sections **and**
 - **IF** his income **exceeds** the maximum amount which is not changeable to tax (i.e. basic exemption limit).

- **Forms and due date:**

- o Forms No. 3CA, Form No. 3CD in case of person who carries on business or profession and who is required by or under any law to get his accounts audited and
- o Form No. 3CB and Form No. 3CD, in case of a person who carries on business or profession but not being a person referred to above.

- Due date for getting the books audit and filing of return in both the above cases is the due date of furnishing return u/s 139(1) i.e. 30th September of the relevant assessment year.

- **Audit under any other law:**

- o In case where the accounts are required to be audited by or under any other law(as in the case of companies and cooperative societies), it is sufficient if accounts are audited under such other law before September 30 of the assessment year and the assessee obtains before the said date, audit report as required under such law and also a report of audit from a chartered accountant in the audit forms under Income Tax Act i.e. Forms No. 3CA, Form No. 3CD

- **No penalty u/s 271B if audit report obtained within due date but return filed after due date:**

- o After the introduction of new annexure less return forms, the audit report u/s 44AB is not required to be attached with the return.
- o It should not be furnished separately also before or after the due date.
- o However, an assessee should get the audit report before the due date of the furnishing of the return and should fill the relevant columns of return forms on the basis of such report.
- o The assessee should retain the report with himself. It may be furnished at the time of assessment proceedings.
- o No penalty shall be attracted for not furnishing the audit report on or before due date.
- o However, if audit report is not obtained before due date, penalty u/s 271B shall be attracted.

- **Quantum of Penalty for failure to get accounts audited within due date:**
 - o If any person fails to get his accounts audited as required under the provisions of section 44AB before the due date u/s 139(1), the AO may impose penalty which may be a sum equal to **one-half percent of the total sales**, turnover or gross receipts subject to **a maximum of Rs. 1.5 Lakh**.
- **Section 44AB applicable to only business Income:**
 - o Section 44AB provisions are applicable only in the case of business / profession income.
 - o It is not applicable in respect of other incomes. Thai Constructions v. State of Maharashtra [2009] 184 Taxman 52 (Bom.).
- **Turnover in case of broker:**
 - o Transactions by a share broker of sale or purchase of shares **on behalf of parties cannot amount to 'sale turnover or receipt'** of share broker himself within the meaning of section 44AB-**CIT v Hasmukh M. Shah[2003] 85 ITD 99 (Ahd.)**
- **Work-in progress:**
 - o Value of work in progress in case of the assessee engaged in construction of shop / flats **would not constitute 'turnover'** within the meaning of section 44AB-**CIT v B.K Jhala & Associates [1999] 69 ITD 141 (Pune)**.