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Section 40A(3) and Section 40A(3A)

- Section 40A(3) of Income Tax Act 1961 provides for **disallowance** of ***expenses***
  - in respect of which **a payment** or **aggregate of payments** made
  - to a person in a day,
  - otherwise than
  - by an account payee cheque drawn on bank or account payee bank draft, **exceeds Rs 20000**.

- ***Section 40A(3A)*** provides for
  - the payment in excess of Rs 20000
  - in a day
  - made otherwise than by account payee cheque or account payee bank draft,
  - for an allowance made in the assessment for any year
  - on the basis of incurred liability,
  - then to be **treated as income of the year in which such payment is made**.
    - **i.e. expenses are allowed on due/accrual basis and later on payments thereof shall be made in excess of Rs.20000** in a day made otherwise than account payee cheque or account payee bank draft, then they shall be added to the income and that too in the year of payment.

More clarification as under ;

- **Payments Disallowed u/s 40A (3) & 40A(3A)**
  - As per section 40A(3) ,
    - where the assessee incurs any expenditure in respect of which;
    - a payment or aggregate of payments
    - made to a person (to a single person)
    - in a day (on the same or on the very day),
    - otherwise than account payee cheque or account payee bank draft,
    - exceeds RS 20000 (i.e. > RS.20000)
    - **No deduction shall be allowed in respect of such expenditure.**

- However such limit of Rs 20000 has been increased to Rs 35000 in case the payment is made for plying, hiring or leasing of goods carriage.
  i.e. in all the other cases the limit is Rs. 20000

- Section 40A (3A) **further provides that**
  In case an allowance is made in the assessment for any year on the basis of incurred liability (shown in the balance sheet),
  - but in the subsequent year or years,
  - assessee makes a payment exceeding RS 20000 in a day,
  - otherwise than by an account payee cheque or account payee bank draft,
  - in respect of such liability (shown in the balance sheet),
  - then the payment so made
  - shall be deemed to be the profit of the year in which such payment is made.

- The limit of Rs 35000 in case of plying, hiring or leasing of goods carriage is also applicable to section 40A(3A).

- Thus at last ;
  Payment in excess of Rs 20000 in a day
  - in respect of any expenditure incurred
  - in the current year or
  - in the previous-years
  - otherwise than
  - by an account payee cheque or account payee bank draft
  - will be disallowed
  - while calculating profits of an assessee.

- **Aggregate Payment has to be seen**
  - If a person makes more than one different purchases
    - for cash
    - from same person
    - in excess of Rs 20000
    - in a single day
    - even though on separate cash memos,
    - such aggregate payment will be disallowed u/s 40A (3)

- For example if Amit makes three purchases of Rs 8000 each from the same person during ***different time of the day*** and **obtains three different cash memos**, yet the transaction will be covered by section 40A(3) and such expenditure will be disallowed.

- **Exceptions under Rule 6DD**
  - Proviso to section 40A(3A) provides that
    - ***No disallowance shall be made and no payment shall be deemed to be the profits and gains of business or profession***
    - Under Sec.40A (3) and Section 40A(3A)
    - Where a payment or aggregate of payments made
      - to a person in a day,
      - otherwise than by an account payee cheque drawn on a bank or account payee bank draft,
      - exceeds twenty thousand rupees,
      - in such cases and under such circumstances
      - as may be prescribed,
      - having regard to the nature and extent of banking facilities available, considerations of business expediency and other relevant factors.

- The cases and circumstances as mentioned in the above proviso are contained **under Rule 6DD**.

- Some of the circumstances and cases as provided under Rule 6DD are as follows:

  - where the payment is made to
    - the Reserve Bank of India or any banking company
    - the State Bank of India or any subsidiary bank
    - any co-operative bank or land mortgage bank:
    - any primary agricultural credit society or any primary credit society
    - the Life insurance Corporation of India

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- where the payment is made to the Government and, Under the rules framed by it, such payment is required to be made in legal tender;

- where the payment is made by
    - any letter of credit arrangements through a bank;
    - a mail or telegraphic transfer through a bank;
    - a book adjustment from any account in a bank to any other account in that or any other bank;
    - a bill of exchange made payable only to a bank;
    - the use of electronic clearing system through a bank account
    - a credit card;
    - a debit card.

- where the payment is made for the purchase of
    - Agricultural or forest produce; or.
    - the produce of animal husbandry (including livestock, meat, hides and skins) or dairy or poultry farming; or
    - fish or fish products; or
    - the products of horticulture or apiculture,

    To the ***cultivator, grower or producer*** of such articles, produce or products;

- where the payment is made in a village or town, which on the date of such payment is not served by any bank, to any person who ordinarily resides, or is carrying on any business, profession or vocation, in any such village or town;

- where the payment was required to be made on a day on which the banks were closed either on account of holiday or strike;

- Where the payment is made by an authorised dealer or a money changer against purchase of foreign currency or travelers cheques in the normal course of his business.