

Overview of Certain Interesting and Important Facts on Tax Audit



The only constant in life is change. Even, clauses related to Tax Audit Report in Form No. 3CD have no exception to this rule of change. CBDT (Central Board of Direct Taxes) had revised the format of Tax Audit Report to be furnished under the Section 44AB of the Income-tax Act with effect from 25th July 2014 vide Notification No. 33/2014 dated 25.07.2014. The author through this article attempts to highlight some of the important changes and explain some interesting information with regard to tax audit in a simplified manner. Read on to know more ...

Hope, many of you must have actually started doing assignments with respect to tax audit of the FY (financial year) 2015-16, i.e. AY (assessment year) 2016-17. However, majority of us have not really started the same thinking that the due date for doing the same is quite far as of now, i.e. 30th September 2016. Well, the CBDT had made few changes in the format of Tax Audit Report with effect from 25th July

2014. Many of us might be aware of such changes since the tax audits for the FY 2014-15 (AY 2015-16) have already been done/completed. However, some of such important changes are presented below in a simplified manner in summarised format on the relevant clauses that may be read in reference to the Revised Form No.

Let us start with some of the important changes/new points that took place in the Tax Audit Report with effect from 25th July 2014:

- **Clause 4** of FORM NO. 3CD > '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



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Auditor is required to report the address(es) of place(s) where the books of accounts are kept by the client. If the books of accounts are not kept at one location, auditors are supposed to furnish the addresses of all such locations along with details of books of accounts maintained at each of the locations therein.

same' > Here, auditors are supposed to report the particulars of registration under excise duty, service tax, sales tax, customs duty etc. Thus, now do not forget to collect registration number or any other identification in respect of all other types of tax liabilities which assessee/client is liable to pay. Auditors may also obtain such list from the client duly certified from them.

- **Clause 8 of FORM NO. 3CD** > '*Indicate the relevant clause of section 44AB under which the audit has been conducted*' > Here, Auditors are supposed to report under which clause of Tax Audit the Audit is being conducted. Basically, it includes information if the Audit is of Business or Profession or under Presumptive taxation scheme.
- **Clause 11(b) of FORM NO. 3CD** > '*List of books of account maintained and the address at which the books of accounts are kept. (In case books of accounts are maintained in a computer system, mention the books of accounts generated by such computer system. If the books of accounts are not kept at one location, please furnish the addresses of locations along with the details of books of accounts maintained at each location.)*' > Auditor is required to report the address(s) of place(s) where the books of accounts are kept by the client. If the books of accounts are not kept at one location, auditors are supposed to furnish the addresses of all such locations along with details of books of accounts maintained at each of the locations therein.
- **Clause 17 of FORM NO. 3CD** > '*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 the Section 43CA or 50C, please furnish*' > Now, we as the auditors have to report if any land or building or both is/are transferred during the previous year for a consideration less than the value adopted or assessed or assessable by any authority of a State Government referred to in the Section 43CA or 50C. Thus, note down this observation separately in your audit papers if you find the same so that you will not forget to report the same in your Tax Audit Report under the Clause 17.
- **Clause 21(a) of FORM NO. 3CD** > '*Please furnish the details of amounts debited to the profit and loss account, being in the nature of capital, personal, advertisement expenditure etc*' > Auditors are supposed to report the detailed information on amount debited to Profit & Loss Account. However the same are in nature of capital expenditure, personal expenditure, advertisement expenditure in any souvenir, brochure, tract, pamphlet or the like published by a political party, expenditure by way of penalty or fine for violation of any law for the time being 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, etc.
- **Clause 21(b) of FORM NO. 3CD** > '*Amounts inadmissible under section 40(a)*' > Sub-Clause (i) deals with Details of payment on which tax is not deducted OR 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 the Section 200(1) with respect to the PAYMENT TO NON-RESIDENT. On the other hand, Sub-Clause (ia) deals with payment to resident deductees/payee on which tax is not deducted or details of payment on which tax has been deducted but has not been paid on or before the due date specified in Sub-Section (1) of Section 139. Further, auditors need to report the *Name, Address, and PAN* of the payee along with *Date, Amount & Nature of Payment* in respect of whom default has been committed by the auditee client.
- **Clause 21(d) of FORM NO. 3CD** > '*Disallowance/deemed income under section 40A(3)*' > Till 25th July 2014, auditors had to report only the cash payment for expenses incurred 'during the year' in excess of prescribed limit. But now it is our additional responsibility as an auditor to report the cash payment made during the year in respect of expenses incurred in 'earlier years' exceeding the prescribed limit under the Section 40A(3A). Thus, auditor now has to verify all the cash payments in excess of prescribed limits to report under the Sections 40A(3) and 40A(3A).

Further, clause mentioning if certificate has been obtained by the Auditor from the Assessee/client under the Section 40A(3) has been removed from the Revised Form No. 3CD.

- **Clause 27(a) of FORM NO. 3CD** > '*Amount of Central Value Added Tax credits availed of or utilised during the previous year and its treatment in the profit and loss account and treatment of outstanding Central Value Added Tax credits in the accounts*' > Here, in this clause, 'Cenvat' (Central Value Added Tax) word has been used in place of Modvat.
- **Clause 31 of FORM NO. 3CD** > '*(a) refers to Particulars of each loan or deposit in an amount exceeding the limit specified in section 269SS taken or accepted during the previous year & (b) refers to Particulars of each repayment of loan or deposit in an amount exceeding the limit specified in section 269T made during the previous year*' > Earlier, there was a need of mentioning Yes or No to the fact whether Auditor has received/obtained a Certificate from the Assessee/client in this regard (Section 269SS and 269T of the Income-tax Act, 1961). This requirement of reporting has been removed now from the Revised Form No. 3CD.
- **Clause 33 of FORM NO. 3CD** > '*Section-wise details of deductions, if any admissible under Chapter VIA or Chapter III (Section 10A, Section 10AA)*' > In addition to deduction claimed under chapter VIA, auditors are now required to report deduction claimed under the Sections 10A and 10AA, i.e. under Chapter III as well.
- **Clause 34(a) of FORM NO. 3CD** > '*Whether the assessee is required to deduct or collect tax as per the provisions of Chapter XVII-B or Chapter XVII-BB*' > Here, auditors need to report Section wise details of TDS/TCS deducted/collected and paid. Further, auditor also has to report TAN of the Assessee, Section, Nature of Payment, Total

Amount of Payment/Receipt (on which TDS/TCS deducted/collected), TDS/TCS deducted/collected at less than specified rate, amount of TDS/TCS not deposited to the credit of Central Government by the Assessee, etc. Earlier reporting was restricted only with respect to TDS but now the same been extended to TCS as well.

- **Clause 34(b) of FORM NO. 3CD** > '*Whether the assessee has furnished the statement of tax deducted or tax collected within the prescribed time*' > Here, auditors are supposed to report the details like TAN, Type of Form, Due Date for furnishing, Actual Date of furnishing the return (if furnished), Whether the statement of tax deducted or collected contains information about all transactions that are required to be reported. Late submission of TDS/ TCS returns was not required to be reported in Form No. 3CD before this amendment/ change.
- **Clause 34(c) of FORM NO. 3CD** > '*Whether the assessee is liable to pay interest under section 201(1A) or section 206C(7)*' > In old Form No. 3CD, auditor was not required to report detail of Interest payable for delay in payment of TDS/TCS. But now onwards, auditors will have to report the details regarding the interest payable/paid under the Section 201(1A)/ 206C(7) as well. Thus, we can see that CBDT/ITD has really given a huge responsibility on the shoulders of Tax Auditors to report various kinds of details regarding TDS/TCS in order to make sure that the provisions related to TDS/TCS are followed/complied by the client/assessee properly.
- **Clause 37 of FORM NO. 3CD** > '*Whether any cost audit was carried out?*' > Revised Form No. 3CD now requires reporting requirement of cost audit even when the same has been carried out voluntarily along with statutory cost audit carried out as per the provisions of Section 233A of the Companies Act, 1956 (which was the only requirement in old Form No. 3CD). Further, auditor has to do reporting of 'qualifications' made in the cost audit report. The requirement of attaching a copy of cost audit report along with Form has now been removed in the Revised Form No. 3CD. The same thing is applicable for audit (if any) conducted under the Central Excise Act, 1944 which is supposed to get reported by the tax auditors in the Clause 38 of Revised Form No. 3CD.

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- **Clause 39** of FORM NO. 3CD > *'Whether any audit was conducted under section 72A of the Finance Act, 1994 in relation to valuation of taxable services as may be reported/identified by the auditor?'* > Auditor has to report whether any audit was conducted under section 72A of the Finance Act, 1994 (Service Tax). If yes, auditors need to give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the auditor.
- **Clause 40** of FORM NO. 3CD > *'Details regarding turnover, gross profit, etc., for the previous year and preceding previous year'* > Now, auditors need to disclose ratios of preceding financial year also. Earlier, auditor was supposed to report ratios of current year only. Further, auditors have to report total turnover for the previous year as well as for preceding financial year as well now.
- **Clause 41** of FORM NO. 3CD > *'Please furnish the details of demand raised or refund issued during the previous year under any tax laws other than Income-tax Act, 1961 and Wealth tax Act, 1957 along with details of relevant proceedings'* > Auditors now will have to report the details of demand raised or refund issued during the previous year under any tax laws other than Income-tax Act, 1961 and Wealth tax Act, 1957 along with details of relevant proceedings. It includes details like Financial Year to which Demand or Refund related to, *Name of that other Tax Law* (For example VAT, Service Tax etc.), *Type, i.e.* whether demand or refund, Date and Amount. Auditor may also mention his/her notes (if any) in the Remarks column. For example, if your client has received VAT Refund of one of the previous years, do not forget to report the details of the same in this clause.

These are a few small but important and interesting changes that took place in the various clauses of Form No. 3CD with effect from 25th July 2014. Before we conclude, let us look at the provisions of maximum number of Tax Audits allowed by a practicing CA as prescribed by The Institute of Chartered Accountants of India (ICAI):

Maximum Allowable Number of Tax Audits
Tax audit limit increased from 45 to 60 for audits conducted during the financial year 2014-15 and onwards. - (11-02-2014)

Let us note that a thorough understanding of Tax Audit will require an appropriately detailed Tax Audit Program/Check List, etc., as well to be prepared by individual Tax Auditors depending upon the nature of clients they have and other relevant factors.

- In view of the enhancement of professional competence of members to perform quality services in an IT-enabled environment, the Council of ICAI at its 331st meeting held on 10th-12th February 2014 decided to increase the "specified number of tax audit assignments" for practicing Chartered Accountants, as an individual or as a partner in a firm, **from 45 to 60**.
- The said limit will be effective for the audits conducted during the financial year 2014-15 and onwards.
- Accordingly, the Council Guidelines No.1-CA(7)/02/2008, dated 8th August 2008, stands amended **from 1st April 2014** as:

In the Council General Guidelines, 2008, the Council Guidelines No.1-CA(7)/02/2008, dated 8th August, 2008, in Chapter VI "Tax Audit assignments under Section 44AB of the Income-tax Act, 1961", in Explanation given in Para 6.1, in sub-para(a) and sub-para(b), the figure "45" be substituted with the figure "60".

(Source: http://www.icai.org/post.html?post_id=10354)

Let us note that a thorough understanding of Tax Audit will require an appropriately detailed Tax Audit Program/Check List, etc., as well to be prepared by individual Tax Auditors depending upon the nature of clients they have and other relevant factors. Albert Einstein said: *Everything should be made as simple as possible, but not simpler*. Let us consider the issue of tax audit from this perspective. Let us not oversimplify things so that the fundamental essence gets lost in the process.

Ahead of the Tax Audit season this year, all the aforementioned changes/amendments that took place in the various Clauses of Revised Form No. 3CD needs careful attention since this can change our Tax Audit Program/Checklist altogether, and then, not even a small/minor/single requirement of reporting of certain fact/thing shall get missed/skipped from our side. ■