

If none of the above four situations described above exists, the reply to clause 43(a) will be negative.

81.7 If the reply to clause 43(a) is in affirmative, following information has to be furnished:

- (i) Whether report has been furnished by the assessee or its parent entity or an alternate reporting entity.
- (ii) Name of parent entity
- (iii) Name of alternate reporting entity (if applicable)
- (iv) Date of furnishing of report

If the assessee has filed a report, the tax auditor should verify acknowledgement for furnishing the same. If the report has been filed either by the parent of the assessee or another constituent entity of the international group, the tax auditor should ask for a copy of the report and acknowledgement for filing the report.

81.8 The term parent entity is defined in section 286(9)(h). The tax auditor should examine which is the parent entity and report name thereof.

The term alternate reporting entity is defined in section 286(9)(c). The tax auditor should examine whether any such alternate reporting entity exists and if yes, name of the alternate reporting entity should be stated.

From acknowledgement for furnishing report as referred to in sub-section (2) of section 286, date for furnishing of the said report should be stated.

82. Break-up of total expenditure of entities registered or not registered under GST:

| Sl. No. | Total amount of Expenditure incurred during the year | Expenditure in respect of entities registered under GST | | | | Expenditure relating to entities not registered under GST |
|---------|--|---|---|---------------------------------------|--------------------------------------|---|
| | | Relating to goods or services exempt from GST | Relating to entities falling under composition scheme | Relating to other registered entities | Total payment to registered entities | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| | | | | | | |

[Clause 44]

82.1 A question may arise whether the above information is to be given in respect of each and every head of expenditure or only the total expenditure is to be given. Here, guidance may be taken from the heading of the table which starts with the words “Breakup of total expenditure” and hence the total expenditure including purchases as per the above format may be given. It appears that head-wise / nature wise expenditure details is not envisaged in this clause.

82.2 Depreciation under section 32, deduction for bad debts u/s 36(1)(vii) etc. which are not expenses should not be reported under this clause in any of the Columns from 3 to 7.

82.3 Schedule III to the CGST Act, 2017 lists out activities or transactions which are treated neither as a supply of goods nor a supply of services and thus expenditure incurred in respect of such activities need not be reported under this clause in any of the columns from 3 to 7. For example, Para (1) of the Schedule III covers “Services by an employee to the employer in the course of or in relation to his employment” and thus, remuneration to employees need not be reported.

82.4 It may be noted that any expenditure that is incurred, wholly and exclusively for business or profession of the assessee qualifies for the deduction under the Act. Registration or otherwise of the payee under the GST Act has no relevance in considering allowability of expenditure.

82.5 The format as per clause 44 of form 3CD requires that the information is to be given as per the following details:

- A. Total amount of expenditure incurred during the year
- B. Expenditure in respect of entities registered under GST
- C. Expenditure related to entities not registered under GST

82.6 The reporting in respect of B above, i.e. the expenditure in respect of entities registered under GST is further sub-classified into four categories as follows:

- a) *Expenditure relating to goods or services exempt from GST*
- b) *Expenditure relating to entities falling under composition scheme*
- c) *Expenditure relating to other registered entities*
- d) *Total payment to registered entities*

82.7 Expenditure relating to goods or service exempt from GST (Column 3): Here, the value of all inward supply of goods or services which are exempt from GST is to be given.

Section 2(47) of the Central Goods and Service Tax Act, 2017 (hereinafter referred to as CGST Act, 2017) defines exempt supply as follows:

“exempt supply means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under the Integrated Goods and Services Tax Act, and includes non-taxable supply;”

To ascertain what are exempt supplies, the following notifications issued under the CGST Act, 2017 and the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as IGST Act, 2017) are relevant:

- (A) Notification No.1/2017 CT (R), which prescribes rates for intra-State supply of goods
- (B) Notification No.2/2017 CT (R), which prescribes intra-State supply of goods which are exempt
- (C) Notification No.11/2017 CT (R), which prescribes rate for intra-State supply of services
- (D) Notification No.12/2017 CT (R), which prescribes intra-State supply of services which are exempt
- (E) Notification No.1/2017 IT (R), which prescribes rates for inter-State supply of goods
- (F) Notification No.2/2017 IT (R), which prescribes rates for inter-State supply of goods which are exempt
- (G) Notification No.8/2017 IT (R), which prescribes rates for inter-State supply of services
- (H) Notification No.9/2017 IT (R), which prescribes rates for inter-State supply of services which are exempt

82.8 Further, the definition of exempt supply also includes non-taxable supply. The term *“non-taxable supply”* has been defined in section 2(78) of the CGST Act, 2017 as follows:

“non-taxable supply” means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act”

As per the above definition “non-taxable supply” includes supply of goods or services which are not leviable to tax under the CGST Act, 2017 or under the IGST Act, 2017.

82.9 As per section 9 of the CGST Act, 2017 / 5 of the IGST Act, 2017, the following supplies are not leviable to GST:

- (i) supply of alcoholic liquor for human consumption
- (ii) supply of petroleum crude, high speed diesel oil, motor spirit, natural gas and aviation turbine fuel

Hence, the above supplies, being not leviable to GST, are exempt supplies.

82.10 Expenditure relating to entities falling under composition scheme (Column 4): Levy of tax under composition scheme is governed by section 10 of the CGST Act, 2017. While reporting the expenditure under this head, the following should be considered:

- a) A composition dealer cannot charge GST in the invoices.
- b) A composition dealer cannot make inter-State supply.
- c) A composition dealer can issue only bill of supply and not a tax invoice.
- d) The composition dealer should have mentioned the following words at the top of the bill of supply issued by them.

82.11 In case of ineligible input tax credits which are blocked under section 17(5) of the CGST Act, 2017 or in case of purchases from persons registered under composition levy, it is a normal practice of the small and medium taxpayers not to mention the GSTIN of the said suppliers in their accounting software. Hence, a suitable remark / reference in this regard by the tax auditor may be included in the report.

82.12 Expenditure relating to other registered entities is furnished in Column 5. Value of all inward supplies from registered dealers, other than supplies from composition dealers and exempt supply from registered dealers, are to be mentioned here.

82.13 The language used in sub-heading of Column 6 is total ‘payment’ to registered entities. The word ‘payment’ should harmoniously be interpreted as ‘expenditure’ as the combined heading of columns (3), (4), (5) is ‘**Expenditure** in respect of entities registered under GST’. Hence, the total expenditure in respect of registered entities i.e., sum total of values reported in columns (3), (4) and (5) should be reported in Column 6.

82.14 **Expenditure relating to entities not registered under GST (Column 7):** The value of inward supply of goods and/or services received from unregistered persons should be reported here. It should be ensured that the total of columns 6 and 7, tallies with the amount mentioned in column (2) except to the extent of expenditure/ allowance mentioned in para 8.2. and 8.3. The auditor may retain the reconciliation prepared by the assessee for verification.

82.15 In the table under clause 44, the language used is “**expenditure in respect of**”. Since, the word used is ‘expenditure’, it is necessary that the capital expenditure should also be reported in the format prescribed. Separate reporting of capital expenditure will provide ease in reconciliation.

82.16 This report may be prepared for an entity as a whole or for a branch thereof, as may be audited and accordingly the information in these columns may have to be filled up consolidating the expenditure incurred under various GST registrations.

82.17 In order to verify the details filled in, the tax auditor needs to obtain from the assessee the required details in the below tabular format (an illustrative format which may be modified by the Tax auditor according to the facts and circumstances). The Tax auditor should verify the details furnished with the underlying document on a test check basis and retain the same as part of his working papers.

| Expenditure head | Name of the entity to whom payment is made | GSTIN of the entity | Value debited to expenditure account | Value for which input tax credit is taken | Total amount paid to the vendor | Reason for NIL GST | General Remarks, if any |
|------------------|--|---------------------|--------------------------------------|---|---------------------------------|--------------------|-------------------------|
| | | | | | | | |

82.18 An appropriate disclosure should be made by the Tax auditor in Form 3CA/3CB, as the case may be, for the view taken by the assessee in relation to the meaning of “Total expenditure” and the method of filling up the

appropriate columns. If the assessee is not in a position to give the details as required in clause 44, an appropriate disclosure/disclaimer may be made by the auditor in Form 3CA/3CB. Where the assessee has provided reason for not being able to provide details, the same may be reported, if found appropriate.

83. Signature and Stamp/Seal of the signatory

83.1 Form 3CD has to be signed by the person competent to sign Form No. 3CA or Form No.3CB as the case may be. He has also to give his full name, address, membership number, firm registration number, wherever applicable, place and date. Where audit report is issued in soft copy, the tax auditor to affix his Digital Signature.

83.2 Tax Auditor should issue such signed copy of tax audit report in Form No. 3CA or 3CB and particulars in Form No. 3CD to the assessee.

84. Furnishing of Tax Audit Report

84.1 Section 44AB provides that every person, who is required to get his accounts audited for any previous year by an Accountant before the specified date should furnish by that date the report of such audit in the prescribed form duly signed and verified by such accountant setting forth such particulars as may be prescribed.

84.2 Form No 3CA or Form No 3CB as the case may be and Form No 3CD are required to be uploaded on the website of the Income tax department and should be digitally signed by the Auditors. The assessee is required to accept the tax audit report under his digital signature. The provisions of Information Technology Act, 2000 assume importance in this regard. It is important to note that these forms do not state that they have to be signed digitally or electronically. It is only proviso to Rule 12(2) of Income-tax Rules, 1962 which prescribes that where an assessee is required to furnish a report of audit specified under Section 44AB, he shall furnish the same electronically. Thus the primary responsibility of furnishing the report electronically lies with the assessee. In this regard, Section 5 and 6 of the Information Technology Act, 2000 gives legal recognition to the electronic or digital signature. It is also relevant to note that electronic signature is a wider term defined in section 2(1)(ta) of the Information Technology Act, 2000 and includes digital signature which is separately defined in Section 2(1)(p) of the said Act. The forms are required to be uploaded with digital signature. It