

CPE seminar on Provisions of Sec.44AA, 44AB, 44AD, 44ADA & Issues in tax audit reporting

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Sec.44AA

- Professions covered u/s.44AA r w.r 6F
 - ✓ Specified profession –legal, medical, engineering, architectural, accountancy, technical consultancy or interior decoration or any other notified professions.
 - ✓ Notified professions under Rule 6F – authorised representatives, film artist, company secretary and information technology
 - ✓ Authorised representative defined
 - ✓ Film artist is defined
 - ✓ The books to be maintained for 6 years

Applicability of maintenance of books u/s.44AA

(*for example
44AD/44AE, who claims
income to be lower than
prescribed)

Sl no.	Particulars	Requirement of books of account
1	Specified professions, if Gross receipt < Rs.1.50L, in any one or more of last 3 years	General books of account to be maintained; but books not specified
2	Specified profession, if Gross receipt > Rs.1.50 L in all last 3 years	Books to kept as per Rule 6F
3	Non specified profession*, if Income from business profession , <Rs.2.50 L or Turnover < Rs.25 L in all last 3 years	Not required to maintain books of account
4	Non specified profession*, if Income from business or profession , >Rs.2.50 L or Turnover > Rs.25 L in all last 3 years	General books of account to be maintained; but books not specified

44AD

- Conditions to be fulfilled
 - Applicable only to 'eligible assessee', i.e., **resident** individual/HUF/Firm (**not being LLP**)
- Not claimed deduction u/s.10A/AA/B/BA/ & 80HH to 80HHR (*i.e., C.—Deductions in respect of certain incomes*)
 - However, the assessee can claim deduction under chapter VI-A
 - 'Eligible business' means any business except the business of plying, hiring or leasing goods carriages referred to in section 44AE
(Includes retail/wholesale trading/civil construction or any other business)
 - whose total turnover or gross receipts in the previous year does not exceed an amount of Rs. 2crores/Rs.3 crores

44AD

- Not eligible for:
 - Profession referred to in sec.44AA(1)*
 - Person earning income from commission/brokerage
 - Person carrying on agency business
 - Person who is in business of plying, hiring or leasing goods carriages
- * The exclusion applies not merely to the profession referred to in section 44AA(1); but to the person carrying on such profession. This means that in such case, 44AD is available to the business

44AD

‘Eligible Business’ AY 24-25 onwards

Particulars	Turnover limit
If amount/aggregate amounts received during the PY in cash, bearer chq/draft* does not exceed 5% of turnover/gross receipts	Rs.3 crores
In any other case	Rs.2 crores

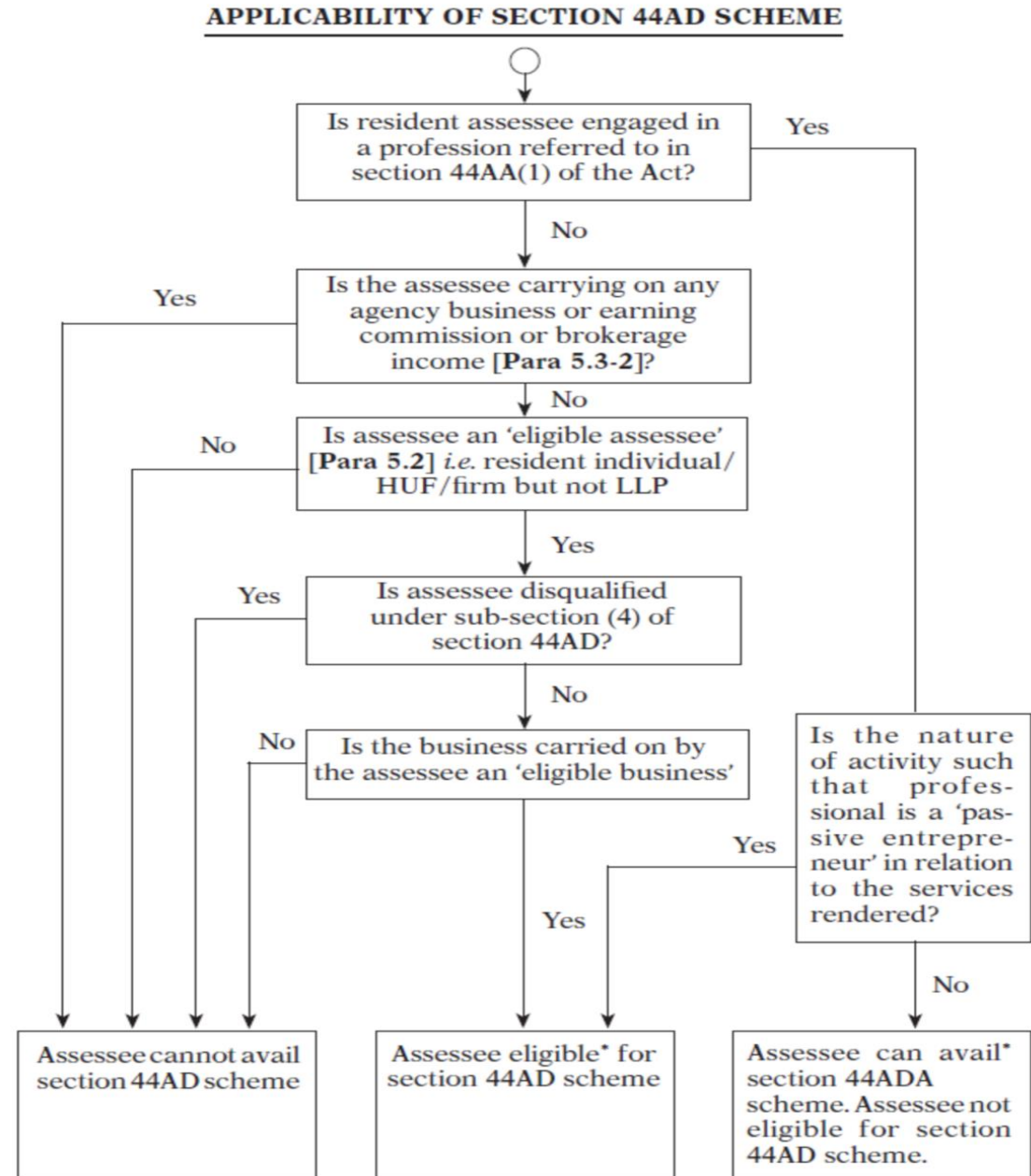
- If above conditions are met, **8%** of turnover/gross receipts deemed to be taxable income
- **6%** in respect of the amount of total turnover or gross receipts, received by account payee cheque/bank draft, electronic clearing system through a bank account/such other electronic mode as may be prescribed, during the previous year or before the due date specified in sub-section (1) of section 139 in respect of that previous year
- **Cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the receipt in cash*
- ‘Electronic mode’ defined in Rule 6ABBA

44AD(4)

- Assessee declaring at 8% has to continue at 8% for next 5 years also
- If assessee offers income lower than 8%,
 - Beneficial provisions of 44AD not available for next 5 years
 - He has to maintain books u/s.44AA
 - He has to get accounts audited u/s.44AB, irrespective of turnover, if total income exceeds the exemption limit

44AD

Applicability summarised



44AD – other issues

- Assessee can voluntarily declare higher income in ITR
- Deduction from 30-38, including depreciation and unabsorbed depreciation are deemed to have been allowed (***but business loss available***)
- From AY 2017-18 onwards, normal deduction in respect of salary and interest partners u/s.40(b) not available
- Payment of advance tax before 15th March is applicable (no need to pay on 15th of June/Sept/Dec) – Sec. 211(1)(b)
- No need to keep books u/s.44AA
- CBDT FAQ
<https://incometaxindia.gov.in/Pages/faqs.aspx?k=FAQs+on+Tax+on+Presumptive+Taxation+Scheme>

44AD – certain settled issues

- U/s.44AD, the AO has no power to assess anything in excess of returned income if returned income is more than 8% of total receipt/sales consideration – 12 SOT 444 (Ahm Tribunal)
- U/s. 44AD, disallowance u/a.40, 40A, 43B are not applicable. It is presumed that disallowance if any u/s.40/40A/43B are considered– 53 SOT 22 (Kol Tribunal)
- 44AD is not applicable for partner of a firm, who is not doing independent business. Interest and salary by partner is not construed as business income u/s.28(v) and hence 44AD benefit is not available - 278 Taxman 342 (Mad HC)
- AO can't apply Sec. 44AD if turnover exceeds threshold limit; Assessee justified in considering 3% net profit as civil contractor – 149 Taxmann.com 25 (Mad HC)

44AD – certain settled issues

- No addition can be made on the ground that assessee was not able to explain discrepancies in books – 207 Taxman 332 (All HC)
- No obligation to explain individual entries of cash deposit in bank deposit unless such entry has direct nexus with gross receipts – 192 Taxmann 264 (P&H HC)
- No addition u/s 68 (or for that matter u/s 69 to 69C), which are based on entry in the books of accounts, can be made, as an assessee availing presumptive taxation scheme is not required to maintain the books of accounts -*Good Luck Kinetic v. ITO* [IT Appeal No. 26 (PAJ) of 2013, dated 15-6-2015]

44AE

- Applicable to 'any assessee':
 - Individual, HUF, AOP, BOI, firm, LLP, company, Co-op society or any other person (resident and non resident)
 - Engaged in the business of plying or leasing goods carriages
 - Owns more than 10 'goods carriages' **at any time** during the PY
 - **Possession** of 10 goods carriages is enough, irrespective of whether taken on HP or on instalments and for which whole or any part of amount payable is still due
- Goods Carriage: motor vehicles used only for carriage of goods
- Applicability is based on period of 'Owned by assessee'; not based on period 'put to use'

44AE

Beneficial provisions:

Situation	Benefits	Remarks
1. Heavy goods (more than 12000 kg Gross vehicle weight)	<u>Profit shall be Higher of :</u> (a) Rs.1000 per ton of gross vehicle weight (or unladen weight) for every month (or part of month) during which the vehicle is owned by the taxpayer	If a vehicle is not owned during certain months, proportionately
	(b) Amount claimed to have been earned from such vehicle	
2. Other than heavy goods vehicle	<u>Profit shall be Higher of :</u> (a) Amount equal to Rs.7500/- for every month (or part of month) during which the vehicle is owned by the taxpayer	
	(b) Amount claimed to have been earned from such vehicle	

44AE

- Assessee can declare higher income
- Deduction from 30-38, including depreciation and unabsorbed depreciation are deemed to have been allowed (***but business loss available***)
- *WDV calculated as if applicable depreciation is allowed*
- In case of firm, normal deduction towards salary and interest to partners u/s.40(b) is allowed (unlike sec.44AD)
- No need to keep books u/s.44AA
- Assessee can declare lower income, provided (a) he has to maintain books u/s.44AA and (b) He has to get accounts audited u/s.44AB, irrespective of turnover, if total income exceeds the exemption limit

44AE – certain issues

- Assessee owned 11 vehicles and 1 was under repair and effectively could operate only 10 vehicles during the year. Not eligible for 44AE benefit – 65 SOT 42 (Chennai ITAT)
- JCB is an earth moving machine and not covered under ‘ goods carriage’. Not eligible for 44AE – 175 Taxman 99 (Cochin ITAT)
- Applying sec.44AE in respect of some lorries and regular method in remaining lorries is not permitted – 94 ITD 278 (Cochin ITAT)
- Once income is assessed u/s.44AE, income from sale of scrap is not assessable separately as other sources- 94 TTJ 282 (Jodhpur ITAT)

44ADA

- Applicable to **Resident** individual/firm (other than LLP)
- Conditions:
 - Engaged in profession referred to in Sec. 44AA(1)
 - Gross receipts from profession does not exceed Rs.50L (Rs.75 L if amount/aggregate amounts received in cash/bearer chq. does not exceed 5% of gross receipts of PY)
- If above 2 conditions are satisfied, income is estimated at 50% of gross receipts
- Deduction from 30-38, including depreciation and unabsorbed depreciation and deduction in respect of salary and interest partners u/s.40(b) not available (**but business loss available**)
- WDV is calculated as if depreciation as applicable is allowed
- It is presumed that disallowance if any u/s.40/40A/43B are considered
- Assessee can claim deduction under chapter VI-A

44ADA

- Assessee can declare voluntarily higher in ITR
- If assessee offers income lower 50%,
 - Assessee has to maintain books u/s.44AA
 - Assessee has to get accounts audited u/s.44AB, irrespective of turnover, if total income exceeds the exemption limit

Issues

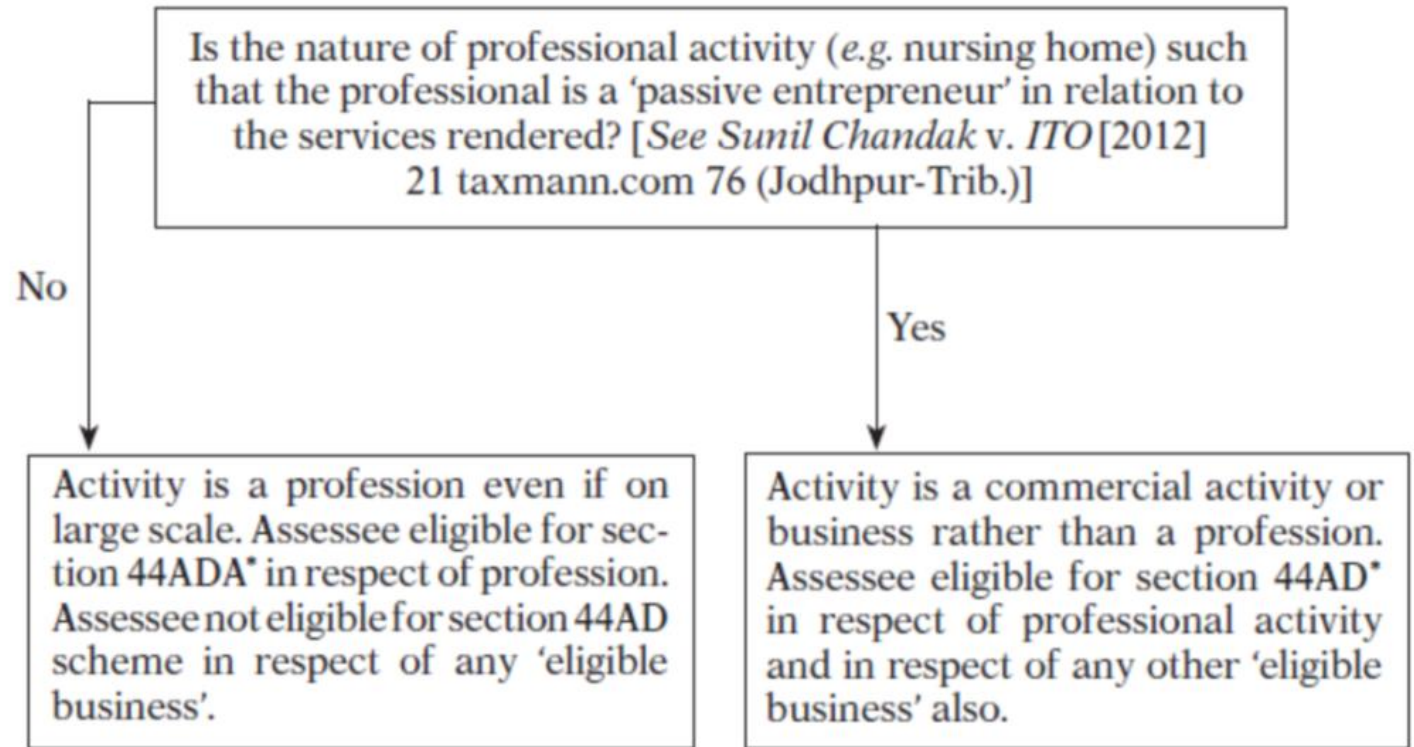
- As regards claim of partner under section 44ADA is concerned, since he is specified professional under 44AA (1), and his receipt is professional receipt, would he be eligible to opt for presumptive scheme under section 44ADA?
- *Orbit 9 Electronics v. ITO* -IT Appeal No. 16/2020 (Hyd), dated 7/6/2020):
Assessee filed u/s.44AD @6%, stating gross professional receipts does not exceed Rs. 2 crores. AO treated u/s.44ADA, as TDS as per 26AS was under 194J. CIT(A) held 44ADA is not applicable as gross professional receipts is below Rs.50L;
but considering TDS amount and also service tax/VAT/CST collected, turnover exceeds Rs.2 cr and estimated profits @25% of turnover. ITAT, considering past profit ratio, determined at 12.5% of gross receipts, i.e., neither under 44AD, not under 44ADA

Passive entrepreneur?

- If the doctor conducts activities of his nursing home on large scale by hiring other doctors to the extent he becomes a passive entrepreneur, he could no longer be said to be “carrying on a profession” within the meaning of section 44AD(6)(i) or “engaged in a profession” to use the words of section 44ADA. In such a case, the doctor would not be eligible for presumptive scheme under section 44ADA but would be eligible for the presumptive scheme under section 44AD
- [Sunil Chandak v. ITO](#) [2012] 21 taxmann.com 76/136 ITD 324 (Jodh. - Trib.) – (in the context of TDS applicability, though)

44AD / 44ADA

- Applicability of Presumptive Income Scheme U/s. 44AD/44ADA to Resident Assessee Engaged in Profession Referred to in Section 44AA(1)




*Conditions apply

44ADA

Illustration for applicability
of 44ADA v. 44AB

Sl no.	Gross receipts	Whether Sec.44ADA is applicable	Whether Sec.44AB tax audit is required
1	0 – Rs.50 L	Yes	No (if income declared is not less than 50% of receipts)
2	Rs.50L to Rs.75 L	Yes, subject to conditions	No, if income is declared u/s.44ADA(1)
3	➤ Rs.50L (other than 2 above)	No	Yes

Audit u/s.44AB, r.w.r 6G

Particulars	Applicability of compulsory audit u/s.44AB
Person carrying on business (both Resident&NR)	If total sales, turnover or Gross Receipts in business for the PY exceed Rs. 1 cr (Rupees One crore)
Person carrying on business, subject to 2 conditions Given 	No tax audit u/s.44AB, for a person if total sales, turnover, gross receipts in business (not profession) exceeds Rs.10 cr in the PY, provided: <ul style="list-style-type: none"> a) Aggregate of all receipts in cash does not exceeds 5% of such receipt b) Aggregate of all payments in cash does not exceed 5% of such payment <i>Note: for this purpose, receipt/payment by chq/draft, which is not account payee is treated as payment/receipt in cash</i>
Person carrying on profession	If gross receipts in profession exceeds Rs.50 L
Person covered u/s.44AE, 44BB or 44BBB	If the person claims that the profits and gains from business are lower than the profits computed under the said sections (irrespective of turnover)
Person covered u/s.44AD (4)	Person carrying on business, covered u/s.44AD(4), but income exceeds maximum amount not chargeable to tax
Person covered u/s.44AD	Person claims profits and gains from profession are lower than prescribed u/s.44ADA and income exceeds maximum amount not chargeable to tax

‘Audited under any other law’

Proviso to 44AB

- In a case where such person is required by or under any other law to get his accounts audited, it shall be sufficient compliance with the provisions of this section if such person gets the accounts of such business or profession audited under such law before the specified date and furnishes by that date the report of the audit as required under such other law and a further report by an accountant in the form prescribed under this section.

'Turnover' as per ICAI GN

- Sale proceeds of fixed assets would not form part of turnover since these are not held for resale
- Sale proceeds of property held as investment property will not form part of turnover
- Sale proceeds of any shares, securities, debentures, etc., held as investment will not form part of turnover
- If the shares, securities, debentures etc., are held as stock-in-trade, the sale proceeds thereof will form part of turnover
- Discount allowed in sales invoice will reduce the sale price and, therefore, the same can be deducted from the turnover

'Turnover' as per ICAI GN

- Cash discount in the nature of a financing charge is not related to turnover. The same should not be deducted from the figure of turnover
- Price of goods returned should be deducted from the figure of turnover even if the returns are from the sales made in the earlier year/s
- Speculative transaction:- total of favourable (+ve) & unfavourable (-ve) differences in case of squared off transactions shall be taken as turnover

'Gross receipts' in Business as per ICAI GN

“Gross receipts in business” for purposes of section 44AB does not include:

- Sale proceeds of fixed assets including advance forfeited, if any;
- Sale proceeds of assets held as investments;
- Rental income unless the same is assessable as business income;
- Dividends on shares except in the case of an assessee dealing in shares;
- Income by way of interest unless assessable as business income;
- Share of profit, interest, remuneration, bonus, commission, etc. received by a partner from the partnership firm

'Gross receipts' in Business as per ICAI GN

- Write back of amounts payable to creditors and/or provisions for expenses or taxes no longer required.
- Agriculture receipts [as covered in section 2(1A)]
- Merely reimbursement of certain expenses incurred will not form part of gross receipts.

Issues relating to turnover

- Whether a particular activity can be classified as 'business' or 'profession' will depend on the facts and circumstances of each case.
- Sec. 44AB not applicable if the person declares profits and gains in accordance with sec.44AD(1) or 44ADA(1)
- Sec.44AB is not applicable for person covered u/s.44B or 44BBA
- Benefit of Rs.10 cr applicable only for business, not for notified profession

Turnover - issues

- Trading & job work services to be clubbed for Rs.1 cr limit (163 Taxman 154, Raj HC)
- Value of WIP is not treated as turnover – 69 ITD 141(ITAT Pune)
- If income is exempt u/s.10 to13A, sec.44AB is not applicable (81 ITD 295 - Mum)
- If the person only a partner in a firm and not carrying on business independently, such remuneration is not a 'gross receipt' -139 Taxmann.com 163 (Bom)
- Sec. 44AB applies only to business/profession income; not applicable to other income – 184 Taxman 52 (Bom.)
- Sharebrokers sales/purchase on behalf of parties not a turnover for Sec.44AB – 85 ITD 99 (Ahm)

Rule 6G(3) – revision of TAR

- (3) The report of audit furnished under this rule may be revised by the person by getting revised report of audit from an accountant, duly signed and verified by such accountant, and furnish it before the end of the relevant assessment year for which the report pertains,
if there is payment by such person after furnishing of report under sub-rules (1) and (2) which necessitates recalculation of disallowance under section 40 or section 43B.

Penal provisions for non compliance

- **S.271B.** If any person **fails** to get his accounts audited in respect of any previous year or years relevant to an assessment year or furnish a report of such audit as required under section 44AB – 0.50% of sales/turnover, subject to max 1.50 Lacs
- *S.273B* – NO penalty shall be imposable for any failure referred to in the said provisions if he proves that there was **reasonable cause** for the said failure.
- *Sec. 271B Penalty is applicable only if accounts are **not** audited as per s. 44AB and not for delay in submission of Audit Report (ITA no.1197/Ahem/2024)*

Amendments to Form 3CD



**CBDT Notification No. 23/2025 dated March 28, 2025
(Effective from 01.04.2025)**

Amendments in 3CD reporting

- **Clause 12** – whether profits and gains assessable on presumptive basis u/s. 44BBC
 - 44BBC – (inserted w.e.f 01.04.2025)
Special provision for computing profits and gains of business of operation of cruise ships in case of non-residents
- **Clause 19** – reporting relating to deduction u/s. 32AC, 32AD, 35AC, 35CCB, omitted
 - Rationale could be such deductions are no longer applicable

Amendments in 3CD reporting

- **Clause (21)** - in sub-clause (a), after the row starting with the words “Expenditure incurred to provide any benefit or perquisite”, a row with following words inserted
“Expenditure incurred to settle proceedings initiated in relation to contravention under such law as notified by the Central Government in the Official Gazette in this behalf”
- Rationale could be to give effect to the new sub-clause (iv) added to **Section 37(1)**, effective from 1st April 2025, which reads:
“Expenditure incurred to settle proceedings initiated in relation to contravention under such law as may be notified by the Central Government in the Official Gazette in this behalf.”
- ✓ *Notified Laws for the above purpose -notification no. 38/2025 dated 23.04.2025*
 - (i) the Securities and Exchange Board of India Act, 1992;
 - (ii) the Securities Contracts (Regulation) Act, 1956;
 - (iii) the Depositories Act, 1996;
 - (iv) the Competition Act, 2002.

Amendments in 3CD reporting

- **Clause 22** – substituted with new table

No.	Particulars	Remarks
22	(i) Amount of interest inadmissible under section 23 of the Micro, Small and Medium Enterprises Development Act, 2006 (MSMED Act); or	Existing
	(ii) Total amount required to be paid to a micro or small enterprise, as referred to in section 15 of the MSMED Act, during the previous year;	New
	(iii) Of amount referred to in (ii) above, amount - (a) paid up to time given under section 15 of the MSMED Act;	New
	(b) not paid up to time given under section 15 of the MSMED Act and inadmissible for the previous year.”;	Existing

- ✓ Refer ICAI GN, page 208 on MSME due reporting relating to unpaid after 31st March

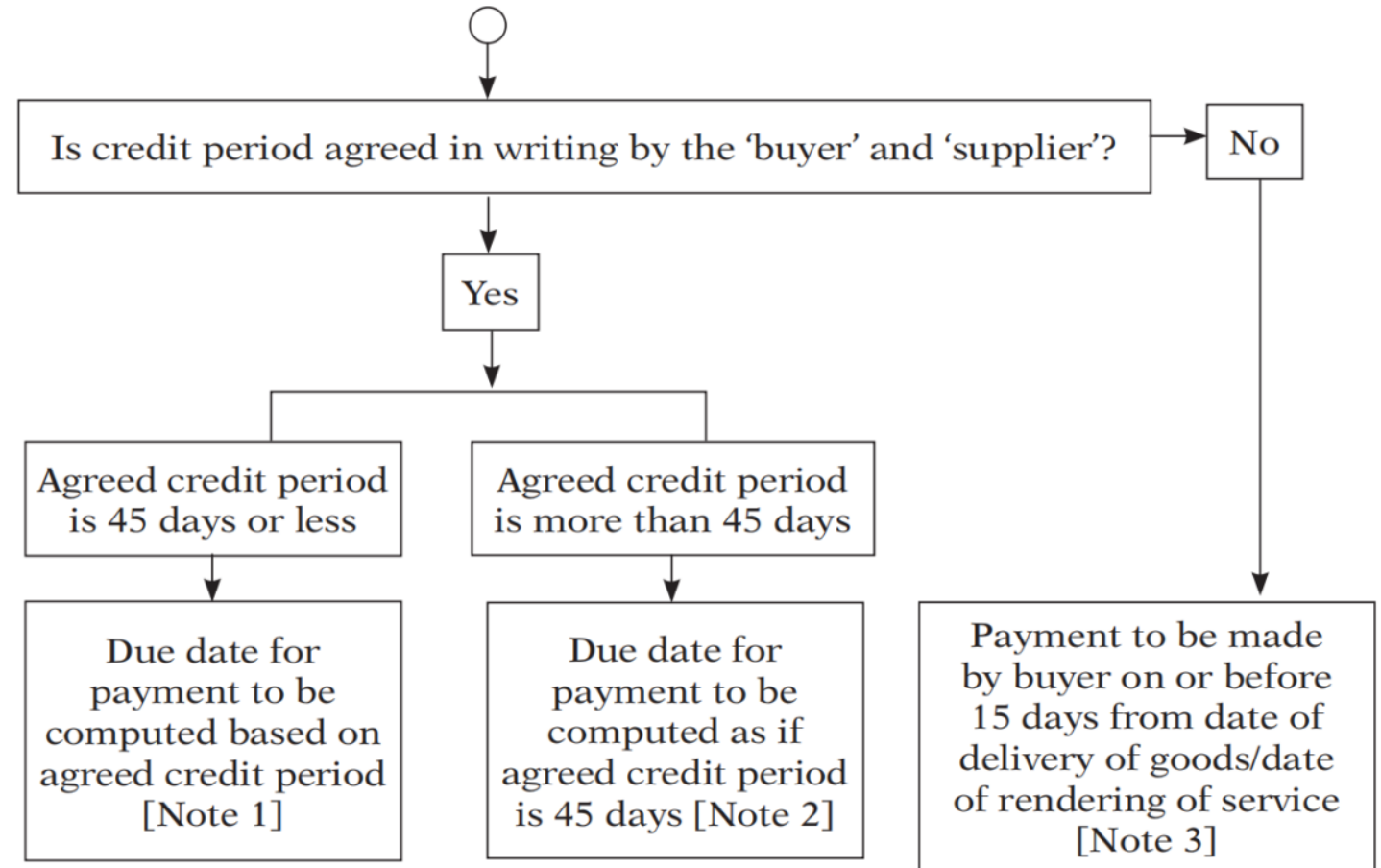
Issues relating to MSME

- Revised Classification applicable w.e.f 1st April 2025
- Composite Criteria: Investment in Plant & Machinery/equipment and Annual Turnover (Notification dt 21.03.2025)

Classification	Micro	Small	Medium
Manufacturing & Service enterprises	Investment in Plant & Machinery or Equipment: 1. Not more than Rs. 2.5 crore (1) and 2. Annual Turnover not more than Rs. 10 crore (5)	Investment in Plant & Machinery or Equipment: 1. Not more than Rs. 25 crore (10) and 2. Annual Turnover not more than Rs. 100 crore (50)	Investment in Plant & Machinery or Equipment: 1. Not more than Rs. 125 crore (50) and 2. Annual Turnover not more than Rs. 500 crore (250)

What is the time allowed by section 15 of MSMED Act for making payment to a supplier who is a micro or small enterprise?

Note: If written objection within 15 days; hold on until objection is removed



Amendments in 3CD reporting

- **Clause 26** – relating to 43B
- In respect of any sum referred to in ~~clause (a), (b), (c), (d), (e), (f) or (g)~~ of section 43B, the liability for which:-
 - (A) pre-existed on the first day of the previous year but was not ~~allowed~~ allowable 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~~ and (for clauses other than clause (h) of section 43B) 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.

Amendments in 3CD reporting

- **Clause 28** – relating to section 56(2)(viia) – Omitted (01.04.2017)
- **Clause 29** – relating to section 56(2)(viib) – Omitted (01.04.2025)

Amendments in 3CD reporting

- **Clause 31-** relating to Sec.269SS/T
- in sub-clauses (a) and (b), for item (ii),

(ii)	Amount of each loan or deposit taken or accepted and code of the nature of such amount, as given in <i>Note 1</i> ; [Dropdown to be provided]”;	<u>Earlier clause</u> Amount of loan or deposit taken or accepted;
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- in clause (31), in sub-clause (c), for item (ii),

(ii)	Amount of each repayment of loan or deposit or any specified advance and code of the nature of such amount, as given in <i>Note 1</i> ; [Dropdown to be provided]”;	<u>Earlier clause</u> Amount of the repayment;
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Amendments in 3CD reporting

- After **clause (31)**, the following Note shall be inserted, namely:—
- “*Note 1.* – The code for the nature of amount/ receipt/ repayment is as below –

S. No.	Nature of Amount / Receipt / Repayment	Code
1	Cash payment	A
2	Cash receipt	B
3	Payment through non-account payee cheque	C
4	Receipt through non-account payee cheque	D
5	Transfer of asset	E
6	Transfer of liability	F
7	Conversion of assets	G
8	Conversion of liabilities	H
9	Journal entry [Debit]	I
10	Journal entry [Credit]	J
11	Any other mode [Debit]	K
12	Any other mode [Credit]	L

Amendments in 3CD reporting

- New **Clause 36B** (after clause 36A),

“36B. a)	Whether the assessee has received any amount for buyback of shares as referred to in sub-clause (f) of clause (22) of section 2? (Yes/No)	
b)	If yes, please furnish the following details:	
(i)	Amount received (in Rs.)	
(ii)	Cost of acquisition of shares bought back”.	

- Rationale:
- Clause (f) inserted in Sec.2(22) w.e.f 01.10.2024
 - Dividend includes - “any payment by a company on purchase of its own shares from a shareholder in accordance with the provisions of section 68 of the Companies Act, 2013 (18 of 2013)”
 - Note: Sec.115QA relating to taxation on companies on shares bought back from shareholders not applicable for shares bought back after 01.10.2024

Certain points in 3CD reporting

Clause ref.	Issue
14(b)	The adjustments envisaged by section 145A will not have any impact on the trading account of the assessee & under both methods, Gross profits will be the same (ICAI GN)
16(a)	Sec.28-Inventory converted in FA -fair value of such inventory offered to tax and added to FA
21(B)	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
25(e)	<ul style="list-style-type: none">• ICDS adjustments shall be ensured in ITR by assessee –• Provision v. TDS
27A CENVAT availed/ utilised during the prev. year	From July 1, 2017, central excise duty has been largely subsumed in GST and is leviable only on 6 products viz. petroleum crude, diesel, petrol, aviation turbine fuel, natural gas and tobacco. Accordingly, reporting of CENVAT credit under this clause will be for only those assesseees who deal in these products -ICAI GN
34	TDS reporting w.r.to quarterly TDS files (conso files)
40	For net profit/turnover ratio, Net profit Before Tax is to be considered (ICAI GN)
44	Regarding expenditure vis a vis GST & reconciliation

Clause 44: Reconciliation of the total amount reported under column 2 and sum of expenditure

Particulars	Amount (Rs.)
Total revenue expenditure as per statement of P&L	3,57,96,02,101
Add: Stock Differential	22,08,81,245
Less: Depreciation Expenses	11,74,06,325
Less: Employee Benefit Expenses	59,62,43,929
Less: Provision for Bad and doubtful debts	24,96,284
Less: Warranty provision	2,06,27,362
Less: Intangibles under Development written off	43,43,416
Less: Rates & taxes	58,91,334
Sum of amounts as per Column 6 and 7 of Clause 44.	3,05,34,74,696

Professional matters

- Documentation
- Maximum number of TAR per partner/CA is 60, w.e.f 01.04.26

THANK YOU

Varma & Varma

Chartered Accountants
