

# Seminar on Issues on Tax Audit

## **Tax Audit – Documentation**

- CA Rajendra Agiwal

---

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

## Important Precedents on documents

- At the outset it is important to note some of the judicial precedents in the context of documents, agreements, contracts etc. and its importance as evidence in the context of income-tax proceedings:
  - Fuzhakkal Kuttappu vs.C. Bhargavi & Ors. [ AIR 1977 305]
  - Faqir Chand Gulati 10 SCC 345
  - Dhariwal Industries Ltd. vs. ACIT (2008) 111 ITD 379
  - Label used in documents for entering into transaction
  - Intention of the parties
  - Actual acts done by the parties
  - What are the consequences if the intention deciphered in documents is different than actual acts done by the parties
-

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

## Instances:

- Recall the controversy in the context of sale & lease back transaction which has resulted in the amendment by way of insertion of explanation 4A w.e.f.1-10-96 by Finance Act 1996 which is as follows:
  - *Explanation 4A.*—Where before the date of acquisition by the assessee (hereinafter referred to as the first mentioned person), the assets were at any time used by any other person (hereinafter referred to as the second mentioned person) for the purposes of his business or profession and depreciation allowance has been claimed in respect of such assets in the case of the second mentioned person and such person acquires on lease, hire or otherwise assets from the first mentioned person, then, notwithstanding anything contained in *Explanation 3*, the actual cost of the transferred assets, in the case of first mentioned person, shall be the same as the written down value of the said assets at the time of transfer thereof by the second mentioned person.
-

---

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

## Instances

- Allowability of depreciation
  - Mr. A acquired an asset for Rs 15 lacs from Mr. B
  - Mr. B when sold the asset to Mr. A , WDV in his hands was Rs. 10 lacs
  - After sale of asset by Mr. B to Mr. A , Mr. B reacquired it on lease [ this is arrangement of sale & lease back]
  - Mr. A's claim of depreciation on Rs. 15 lacs was questionable
  - Tax auditor certifying depreciation under section 32 is supposed to take cognizance of this tainted transaction
  - In the above example label attached to the transaction is not matching with the acts done by the parties.
  - This transaction to defraud the revenue was matter of litigation which ultimately resulted in amendment.
-

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

## Instances

Power of assessing officer to adjust deduction by taking reasonable profit: [ Text of Section 80IA(10)]

Where it appears to the Assessing Officer that, owing to the close connection between the assessee carrying on the eligible business to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in such eligible business, the Assessing Officer shall, in computing the profits and gains of such eligible business for the purposes of the deduction under this section, take the amount of profits as may be reasonably deemed to have been derived therefrom.

---

---

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

## Approach regarding documentation in tax audit assignment vis-à-vis statutory audits:

- Scope of discussion not only tax audit u/s 44AB but also other assignments of certification for various sections which are at par with audit u/s 44AB
- True & fair / True & Correct approach
- Objective of tax audit :

One of the objectives of tax audit is to ascertain/derive/report the requirements of Form Nos. 3CA/3CB and 3CD. Apart from reporting requirements of Form Nos. 3CA/3CB and 3CD, a proper audit for tax purposes would ensure that the books of account and other records are properly maintained, that they faithfully reflect the income of the taxpayer and claims for deduction are correctly made by him. Such audit would also help in checking fraudulent practices. It can also facilitate the administration of tax laws by a proper presentation of accounts before the tax authorities and considerably save the time of Assessing Officers in carrying out routine verifications, like checking correctness of totals and verifying whether purchases and sales are properly vouched for or not. The time of the Assessing Officers saved could be utilised for attending to more important and investigational aspects of a case. [ This indicates heavy burden on tax auditor]

---

---

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

## What is tax audit : FAQ

- ▶ The dictionary meaning of the term "audit" is check, review, inspection, etc. There are various types of audits prescribed under different laws like company law requires a company audit, cost accounting law requires a cost audit, etc. The Income-tax Law requires the taxpayer to get the audit of the accounts of his business/profession from the view point of Income-tax Law.
  - ▶ [Section 44AB](#) gives the provisions relating to the class of taxpayers who are required to get their accounts audited from a chartered accountant. The audit under [section 44AB](#) aims to ascertain the compliance of various provisions of the Income-tax Law and the fulfillment of other requirements of the Income-tax Law. The audit conducted by the chartered accountant of the accounts of the taxpayer in pursuance of the requirement of [section 44AB](#) is called tax audit.
  - ▶ The chartered accountant conducting the tax audit is required to give his findings, observation, etc., in the form of audit report. The report of tax audit is to be given by the chartered accountant in Form Nos. 3CA/3CB and 3CD.
-

---

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

## What is tax audit : FAQ

- Checking, Review and inspection
  - Whether assessee has complied provisions of the act [ whichever are applicable to the impugned assessee]
  - Tax auditor is required to give his findings / observations on compliances of provisions
  - Introspection is required as to :
  - If tax auditor is not provided adequate record, he does not have man power [ trained / skilled man power] so instead of giving exact findings / observations is he putting disclaimer's notes? Under pretext of voluminous transactions, non availability of adequate time etc.
-



---

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

**Accounts : Connotation of : S . J. Agarwal & Co [2008] 114 ITD 27 – Pune ITAT [SMC]**

- In this case it has been held:
  - For Section 142(2A) / Section 44AB “accounts” does not mean merely “books of accounts”.
  - “accounts” include books of accounts, balance sheet, and all other records maintained by the assessee. It may not be as per system, manner or form as prescribed u/s 44AA.
  - In Section 44AB reference is not to “books of accounts” or “regular books of accounts”.
  - Does this decision speak about importance of scope of documents to be seen from compliance perspective. Very wider connotation is given to “accounts”.
-

---

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

**PRESS NOTE DT. 10TH DECEMBER, 1999**

## **Tax audit report**

AUTHORISED REPRESENTATIVE

SECTION 288

The Government has decided that all cases where the information provided in the audit report is incomplete or such non-committal replies are furnished so as to render the remarks or the report meaningless, should be reported by the Assessing Officer to the Commissioner of Income-tax. The matter thereafter, be taken up by the Commissioner of Income-tax to see if the case reflects any professional negligence on the part of the accountants signing the audit report. Action for initiation of disciplinary proceedings in terms of section 288 of the Income-tax Act should be immediately taken by the Commissioner of Income-tax with the approval of the Chief Commissioner of Income-tax as the case may be.

The responsibility of tax audit has been entrusted to the chartered accountants under the Income-tax Act, 1961. Therefore, it has been felt necessary to make them accountable for any professional misconduct.

The Central Board of Direct Taxes have issued instructions with immediate effect to the field officers to report any professional negligence on the part of the chartered accountants in preparing the tax audit report to the Institute of Chartered Accountants of India in terms of section 288 of the Income-tax Act, as the Institute of Chartered Accountants of India is entitled to institute proceedings against its member chartered accountants who submit fault tax audit reports.

This information was given by the Minister of State for Finance, Shri V. Dhananjaya Kumar in a written reply to a question by Shri Suresh Ramrao Jadhav in the Lok Sabha today (10th Dec., 1999).

---

---

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

PRESS NOTE DT. 10TH DECEMBER, 1999

Tax audit report

AUTHORISED REPRESENTATIVE

SECTION 288

- ▶ The Government has decided that all cases where the information provided in the audit report is incomplete or such non-committal replies are furnished so as to render the remarks or the report meaningless should be reported by the Assessing Officer to the Commissioner of Income-tax. The matter thereafter be taken up by the Commissioner of Income-tax to see if the case reflects any professional negligence on the part of the accountants signing the audit report. Action for initiation of disciplinary proceedings in terms of section 288 of the Income-tax Act should be immediately taken by the Commissioner of Income-tax with the approval of the Chief Commissioner of Income-tax as the case may be.
-

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

- ▶ The responsibility of tax audit has been entrusted to the chartered accountants under the Income-tax Act, 1961. Therefore, it has been felt necessary to make them accountable for any professional misconduct.
  - ▶ The Central Board of Direct Taxes have issued instructions with immediate effect to the field officers to report any professional negligence on the part of the chartered accountants in preparing the tax audit report to the Institute of Chartered Accountants of India in terms of section 288 of the Income-tax Act, as the Institute of Chartered Accountants of India is entitled to institute proceedings against its member chartered accountants who submit fault tax audit reports.
  - ▶ This information was given by the Minister of State for Finance, Shri V. Dhananjaya Kumar in a written reply to a question by Shri Suresh Ramrao Jadhav in the Lok Sabha today (10th Dec., 1999).
  - ▶ SOURCE : (2000) 158 CTR (St) 5
-

---

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

Changes in Clause No. 4 (Registration Number in case of Indirect-tax liability to be given) :

- ▶ “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 same”
    - ▶ “liable to pay tax” – does it refer to a outstanding liability or to general coverage of the law? If former, then as at which date? As at year end or at any time during the year? What if registration taken but not liable?
    - ▶ Location wise details to be given?
    - ▶ Even registration number under other indirect taxes to be reported
-

---

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

Changes in Clause No. 4 (Registration Number in case of Indirect-tax liability to be given) :

- ▶ “Indirect tax” is not defined anywhere and would differ from State to State. Auditor should obtain from the assessee a list of IDT applicable to him
  - ▶ Auditor should also obtain copies of registration certificates
  - ▶ In case of multiple registrations, each certificate to be obtained
  - ▶ Where the IDT law does not require any registration, appropriate ID No. to be reported (e.g. Customs Act – copy of IEC Code to be obtained)
  - ▶ If auditor is of view that a particular IDT is applicable but assessee is not registered, he should report the same
-

---

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

Changes in Clause No. 8:

- ▶ The four clauses of section 44AB under which tax audit can be carried out are
    - a. If the person is carrying on business whose total sales, turnover or gross receipts, as the case may be exceeds Rs 1 crore.
    - b. If the person is carrying on profession whose gross receipts in profession exceed Rs 25 lakhs
    - c. If the person is carrying on business, provisions of section 44AE or 44BB or 44BBB are applicable to him and he claims that his income is lower than the amount deemed by sections 44AE or 44BB or 44BBB to his profits and gains.
    - d. If the person is carrying on business, provisions of section 44AD are applicable to him and he claims that his income is lower than the amount deemed by section 44AD to be his profits and gains & his income exceeds the maximum amount which is not chargeable to income-tax
-

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

Changes in Clause No. 8:

- ▶ This might create problems in cases where the distinction between business and profession is not clear – could they link this to the Code in ITR form for the main business/profession?
  - ▶ In the utility, a drop down list is provided and we have to select the appropriate one
  - ▶ What if more than one clause is applicable? (Guidance Note is silent on this aspect)
  - ▶ **In the utility, it is possible to select more than one clause**
-



---

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

Changes in Clause No. 8 :

Relevance of distinction between Business & Profession

▶ Section 2(13) defines business:

“Business” includes any trade, commerce, or manufacture or any adventure or concern in the nature of trade, commerce or manufacture.

▶ Section 2(36) defines Profession :

“Profession” includes vocation

- ▶ Whether a particular activity can be classified as ‘business’ or ‘profession’ will depend on the facts and circumstances of each case – CIT V. Manmohan Das (Deceased) (1966) 59 ITR 699 (SC)
- ▶ All professions are business, but all businesses are not professions. Only those businesses are professions the profit of which are dependent mainly upon the personal qualification and in which no capital expenditure is required or only capital expenditure of comparatively small amount is required.
-

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

Changes in Clause No. 11:

## **Books of Account**

- ▶ To provide address at which books of account are maintained
  - ▶ If more than one location, address of each location and books maintained
  - ▶ List of books of account & nature of documents examined
  - ▶ Intention may be to ease search/ survey procedures
  - ▶ What if accounts are maintained on servers at other places/ on the cloud?
  - ▶ How to report SAP modules?
  - ▶ What does "nature of documents" mean?
  - ▶ List of documents is not required - only nature
-

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

## Changes in Clause No. 11

- ▶ Can we categorize on board basis – say as under:
    - ▶ Bills/Invoices/Receipts issued/ received by assessee
    - ▶ Statutory registers maintained under various laws
    - ▶ Contracts/ agreements entered into by the assessee
    - ▶ Correspondence between the assessee and others
    - ▶ Third party confirmations / statements of account
  - ▶ In the utility, there is no separate section or drop down list for ”nature of documents”
  - ▶ However, for location, there is a provision for showing a non Indian location
  - ▶ Underlying documents would differ from assessee to assessee
-

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

Clause No. 11

\*The Revised Guidance Note:

- ▶ Para 14.3 of GN – “other relevant documents directly related to transactions reflected in the books of accounts like original purchase invoice, copy of bank statements, bills, vouchers, various agreements/contracts or any other document on the basis of which preliminary entries are passed in the books of accounts.”
  - ▶ Para 14.4 of GN – Reference to “document” under Information Technology Act, 2000. Includes “electronic record” which means “data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche.”
  - ▶ Para 20.10 of GN – refers to bills, vouchers, debit/credit notes, inventory register, agreement, orders etc.
-

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

Clause 12:

Whether the profit and loss account includes any profits and gains assessable on presumptive basis, if yes, indicate the amount and the relevant sections (Sec 44AD, 44AE, 44AF\*, 44B, 44BB, 44BBA, 44BBB or any other relevant section) :-

This relates to civil construction, Business of plying, hiring or leasing goods carriages, retail business, shipping business, business of exploration of mineral oils, operation of aircraft by non-resident, foreign companies engaged in civil construction

In case books of accounts are maintained for other businesses , then it is necessary to apportion the common expenses to various businesses on a logical basis

In case the net income is credited to P&L account and the auditor is unable to verify the same , the tax auditor should make necessary disclosure and may qualify the report.

*\*Section 44AF has been omitted w.e.f AY 2011-12*

---

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

Clause 13(b):

Whether there has been any change in the method of accounting employed vis-à-vis the method employed in the immediately preceding previous year :-

The method of accounting can be changed provided changed method is regular method and the assessee has not merely abandoned or changed it for a casual period to suit his own purposes. Any change in accounting policy to be accepted even if it leads to reduction in tax liability . Any change in accounting policy is not a change in method of accounting and hence need not be disclosed as a change in method of accounting . Change in inventory valuation is not a change in the method of accounting and need not be mentioned under clause 11(b) .

Clause 11c. If answer to (b) above is in the affirmative, give details of such change, and the effect thereof on the profit or loss :-

The concept of materiality is the basic governing factor. If it is not possible to quantify effect, disclosure of such fact should be stated.

---

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

Clause 14a. Method of valuation of Closing stock employed in the previous year :-

The tax auditor can refer the method of valuation in the significant accounting policies in the notes to accounts. The word “Closing Stock” includes all items of inventory including WIP. loose tools etc .

Consistency in valuation cannot justify wrong valuation method .

Clause 14b. Details of deviation, if any, from the method of valuation prescribed under section 145A, and the effect thereof on the profit or loss :-

Section 145A has come into force from A.Y 1999-2000. It is not necessary to change the method of valuation of purchase/sale and inventory regularly employed in books of account.

---

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

## Question- Clause -14

Imported raw material is lying in customs bonded warehouse. The same is shown as stock in transit in the books. Should the customs duty components, not yet paid, be added to the value of imported raw material in order to satisfy the requirements of section 145A?

Introduction of Credit of Special Additional Duty under customs Act?

---



# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

Clause 15(e) Capital receipt, if any:

- 1) Capital subsidy received in the form of government grants which are in the nature of promoters' contribution
- 2) Government grants in relation to a specific fixed asset where such grant has been shown as a deduction from gross value of Fixed asset.
- 3) Compensation for surrendering certain rights.
- 4) Profit on sale of fixed assets/investments to the extent not credited to the profit and loss account.

Loans and borrowings need not be stated under this clause.

---

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

Clause 17 (Particulars of sale of Land/Building less than Stamp value)

- ▶ Controversy on whether transfer has taken place in the FY concerned:
    - ▶ Auditor's liability in this case
    - ▶ To what extent will it hold good if the assessee's stand in the ROI differs from the auditor's stand?
  - ▶ Controversy on applicability in case of land/building forming part of the block of asset & upon sale, the block does not become negative (& thus, section 50 is not applicable) – what stand should the auditor take?
-

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

Clause 17 (Particulars of sale of Land/Building less than Stamp value):

The Revised Guidance Note

The auditor should obtain:

- ▶ Registered sale deed in case, the property is registered.
  - ▶ In case the property is not registered, the auditor may verify relevant documents from relevant authorities and/or others (lawyers etc.) to satisfy the compliance of sections 43CA/50C
  - ▶ If documents are not available, he may state the same through an observation in his report 3CA/CB
  - ▶ Auditor to apply professional judgment as to what constitutes land or building
-

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

Clause 19. Amounts admissible under sections 33AB, 33ABA, 33AC, 35, 35ABB, 35AC ( wherever applicable), 35CCA, 35CCB, 35D, 35DD, 35DDA, 35E:

- a) debited to the profit and loss account (showing the amount debited and deduction allowable under each section separately;
- b) not debited to the profit and loss account

Tax auditor to state the amount debited in the profit and loss account and the amount actually admissible in case of sub clause a.

Key documents required in support of claim of weighted deduction under section 35(2AB)

Recognition from DSIR in Form 3CK

Form 3CL – Form filed with DSIR for approval of expenditure

Disclosures in notes to accounts to Financials Statements.

Disclosures in Directors' reports

---

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

Clause 21 (Amounts debited to Profit and loss account, being Expenditure of Capital nature) :

- ▶ Tax auditor needs to scrutinize records and obtain information and make necessary inquiries in this behalf

Capital expenditure, if any, debited to the profit and loss account to be disclosed stating the amounts under various heads separately

- ▶ General tests should be applied to determine whether a particular expenditure is of a capital nature i.e. where it brings into existence an asset or advantage of enduring benefit, whether it relates to the frame work of the assessee's business etc.
  - ▶ Capital expenditure debited to p &l account should be maintained in a classified manner
-

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

Clause 21 (Amounts debited to Profit and loss account, being Expenditure of Capital nature) :

- ▶ For capital expenditure which are fully deductible in the computation of total income, maintain particulars regarding
    - ▶ the nature of expenditure,
    - ▶ the amount if expenditure incurred and
    - ▶ the relevant provision under which the expenditure is admissible.
-

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

Clause 21. (i) (Expenditure by way of penalty or fine for violation of any law for the time being in force):

(ii) Any other penalty or fine

(iii) Expenditure incurred for any purpose which is an offence or which is prohibited by law

It is an accepted principle that penalty and fine of infringement of law is inadmissible. Infraction of law is not a normal incident and no expenditure will be allowed

- ▶ Tax auditor should obtain in writing the details of all payments made by way of penalty or fine from the assessee and how such amounts have been dealt in the books of accounts
  - ▶ The tax auditor is not required to express any opinion as to allowability or otherwise of amount.
  - ▶ It does not cover payment for contractual breach.
-

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

Clause 21:

Do this item need to be disclosed in tax audit?

- ▶ Nature of penalty or Fine – Compensatory or Penal
  - ▶ petty fines and penalties like violation of traffic rules, vehicles parked in wrong zones and etc
  - ▶ Compounding Fees
  - ▶ Compensation to distributors for penalty payable by such distributors
  - ▶ Expenditure for any purpose which is yet to be proved an offence
  - ▶ Legal expenses paid for defending a suit for violation of law
  - ▶ Interest paid to enterprises as per MSMED Act, 2006?
-



---

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

Clause 21(h):

Clause 21(h) requires auditors to report amount of deduction inadmissible in terms of section 14A in respect of the expenditure incurred in relation to income which does not form part of the total income. What is the scope of section 14A? Is benefit under section 10A/10B to be considered as an “exemption” or “deduction”?

---

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

Clause 21(i) (Amount inadmissible under the proviso to section 36(1)(iii)):

- ▶ Section 36(1)(iii) provides that interest on borrowed capital would be deductible only if :
    - a) The assessee has borrowed money.
    - b) It is used for the purpose of business and profession.
    - c) Interest is paid/payable on such money.
  - ▶ The proviso to the above section requires that capital borrowed for acquisition of asset for extension of existing business or profession for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use shall not be allowed as a deduction
  - ▶ Tax auditor has to thus report the amount inadmissible under the above proviso.
-

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

Clause 21(i)

- ▶ Borrowing Cost-Qualifying Asset under the AS -16 V/s 36 (1) (iii)?

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

Clause 21B:

- ▶ Check that the total of expense as per schedule reconciles with amount as per P&L.
  - ▶ Verify the TDS deducted with the entries in TDS ledger account and TDS annual return (Form 26).
  - ▶ Verify the payments made with the TDS challan and TDS annual return.
  - ▶ Ensure that the rate of TDS is correct (based on appropriate classification) and as per correct section
  - ▶ In respect of matters where the remittance is made without deducting TDs and the auditor has a difference of opinion with the legal opinion obtained by the client then he must state both the facts in the form .
-

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

Clause 21e (Provision for payment of gratuity not allowable under section 40A(7)):

As per section 40A(7), deduction of any provision is allowable only if provision is made for contribution to any approved gratuity fund or the provision relates to the amount of gratuity which has become payable during the previous year.

- ▶ The tax auditor should call for the order of Commissioner of I.T granting approval for gratuity fund, verify the date from which it is effective and also verify whether the provision has been made as provided in the trust deed.
  - ▶ In case the provision is made for payment of gratuity is not allowable under sec 40A(7) the same is to be stated under this sub clause .
-

# Tax Audit under Section 44AB of the Income Tax Act, 1961

---

Clause 27(b) (Particulars of income or expenditure of prior period credited or debited to the profit and loss account):

- ▶ Information may be available from the annual accounts, where accounts of the assessee are audited under any other law
  - ▶ In other cases, a close scrutiny of the ledger in regard to the period for which expenditure or income is entered in the account books is required
  - ▶ There is difference between expenditure of any earlier year debited to the profit and loss account and the expenditure relating to any earlier year, which has crystallised during the relevant previous year
  - ▶ Material adjustments necessitated by circumstances which though related to previous periods but determined in the current period, will not be considered as prior period items. The tax auditor has to make a judgmental call on the same .
-

---

# Changes in ITR-6

---

**CBDT vide notification dated 29 July 2015 notified revised ITR forms (ITR 6 for companies) for filing tax returns for AY 2015-16. The key changes in the same have been captured in the following points.**

- ▶ Additional details as to whether the corporate assessee is an FII / FPI and if yes, then seeks SEBI registration number
  - ▶ Expenditure on corporate social responsibility needs to be separately reported
  - ▶ Details of all savings and current bank accounts held at any time during the previous year (excluding dormant accounts).
  - ▶ To report the amount allowable as deduction under Sec 32AC of IT Act
-

---

# Changes in ITR-6

---

- ▶ There have been several changes to the 'Capital Gains' schedule
    - ▶ To provide details of amount deemed to be STCG and LTCG –
      - ▶ Whether any amount of unutilized capital gain on asset transferred during the previous years was deposited in the Capital Gains Accounts Scheme within due date for that year
      - ▶ If yes then details of Previous year in which asset transferred, Section under which deduction claimed in that year, New asset acquired/constructed and the amount not used for new asset or remained unutilized in Capital gains account
    - ▶ In case of non-residents, to report the amount of STCG not chargeable to tax in India as per DTAA and details like Country name, code, Article of DTAA and whether Tax Residency Certificate obtained
    - ▶ To report LTCG on share or debenture with the bifurcation of being listed security and unlisted security
-



---

## Changes in ITR-6

---

- ▶ The 'Income from other sources' schedule has been amended to include additional reporting for non-residents providing details of income chargeable to be taxed under DTAA, details of country name, country code, article of DTAA, rate of tax under DTAA, whether TRC obtained, corresponding Sec of IT Act which prescribes rate and the amount of income
  - ▶ To report expenditure incurred on agriculture and unabsorbed agricultural loss of previous eight AY
  - ▶ The Schedule for details of Foreign Assets and Income from source outside India has been inserted to bring the ITR-6 in line with the 'The Black Money (Undisclosed foreign income and Assets) and imposition of tax Act, 2015.
    - ▶ To provide details of foreign bank accounts held (including any beneficial interest) at any time during the previous year – status(owner/ beneficial owner/ beneficiary), account opening date, interest accrued in the account and interest taxable and offered in this return
-

---

## Changes in ITR-6

---

- ▶ To provide details of financial interest in any entity held (including any beneficial interest) at any time during the previous year - Nature of Interest- Direct/ Beneficial owner/ Beneficiary, Date since held, Income accrued from such Interest, Nature of Income and Interest taxable and offered in this return
  - ▶ To provide details of immovable property held (including any beneficial interest) at any time during the previous year – Ownership, Direct/ Beneficial owner/ Beneficiary, Date of acquisition, Income derived from the property, Nature of Income and Income taxable and offered in this return
  - ▶ To provide details of any other capital asset held (including any beneficial interest) at any time during the previous year - – Ownership, Direct/ Beneficial owner/ Beneficiary, Date of acquisition, Income derived from the property, Nature of Income and Income taxable and offered in this return
-

---

## Changes in ITR-6

---

- ▶ To provide details of account(s) in which assessee has signing authority held (including any beneficial interest) at any time during the previous year – whether income accrued is taxable in the hands of the assessee, if yes details of income accrued in the account and income offered in this return
  - ▶ To provide details of trusts, created under the laws of a country outside India, in which you are a trustee, beneficiary or settler -- Date since position held, Whether income derived is taxable in your hands, If yes then Income derived from the trust and Income offered in this return
  - ▶ To provide details of any other income derived from any source outside India which is not included earlier – country name, country code, Name and address of the person from whom derived, Income derived, Nature of income, whether income accrued is taxable in the hands of the assessee, if yes details of income accrued in the account and income offered in this return
-

---

# Clause 5: Status

---

It means status of the person who is defined as per section 2(31) [i.e Individual, HUF, Company, Partnership Firm, etc.

For example it is a partnership firm then the documents to be verified can be as follows

---

**Thank You!**