



**SEMINAR ON TAX AUDIT ON 05 09 2010**

**BY VASAI BRANCH OF WIRC OF ICAI**

**Topic : Issues in Tax Audit**

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## **I. Objective**

## **II. Duties Onerous**

- ◆ **Extent of liability**
- ◆ **Section 277A and implications**
- ◆ **Section 131**

## **IV. Tax Audit is assessee's obligation**

## **V. Appointment under delegated powers**

## **VI. Communication with previous tax auditor**



- ◆ **Communication before accepting**
- ◆ **Indebtedness to auditee concern**
- ◆ **Undisputed audit fees pending**
- ◆ **Fees**
- ◆ **Undercutting of fees**
- ◆ **Qualified audit report by previous tax auditor**
- ◆ **In case of tax audit taking place for first time**
- ◆ **Ceiling on no. of tax audits per member :45**

## Substantial interest :

- ◆ CA. himself has interest
- ◆ His partner or relative has substantial interest
- ◆ CA. is a Director
- ◆ Partner or relative of CA is a director
- ◆ Accounts writing by CA or his partner



- ◆ **Tax consultant**
- ◆ **Internal auditor**
- ◆ **Employee of Assessee**
- ◆ **Employee of a concern under same management**
- ◆ **Statutory auditor**
- ◆ **Part time lecturership in a college**



**Trust : if CA or his partner is a trustee or employee**

**Letter of appointment**

**VII. Penalty for failure**

**Report not to be filed – to be obtained**

**Reasonable cause**

**Penalty does not obviate need**



**VIII. Submit audit report to whom ?**

**IX. Revision of Audit Report**

**X. Can the tax auditor be removed ?**

**XI. Appointment for some of the businesses**

## **XII. Two formats:**

◆ **In case of Co. following non financial year :**

◆ **Difference between 3CA and 3CB :**

**Form 3CD : Disclosure & verification of particulars.**

**Responsibility of furnishing details is of assessee**

**Non-compliance with AS vs. AS(IT)**

**Statutory audit pending and deadline for tax audit  
nearing**





- ◆ XIII. Powers of Tax Auditor
- ◆ XIV. Detailed management representations
- ◆ XV. Rely upon statutory auditor
- ◆ XVI. Neither binding upon assessee nor the Deptt.
- ◆ XVII. Difference in view points with assessee



## XVIII. Applicability:

- ◆ Business : Total sales/turnover/ gross receipts exceed Rs. 60 lakhs.
- ◆ Profession : Gross receipts exceed Rs. 15 lakhs
- ◆ Sec. 44AD : Small businesses for eligible assesseees
- Civil Construction Contractor's WIP ?
- ◆ Sec.44AE : Plying, hiring or leasing goods carriage
- ◆ Sec. 44AF : Retailers – inoperative w.e.f. AY 11-12



- ◆ **Sec. 44BB : In connection with mineral oil exploration : NR**
- ◆ **Sec. 44BBB : Foreign Companies : civil construction in turnkey power projects**
- ◆ **44B : Shipping business by NRs**
- ◆ **44BBA : Operation of aircrafts by NRs**



## **XIX. Business vs. Profession :**

### **◆ Profession :**

**(i) Accountancy**

**(ii) Architectural**

**(iii) Authorised Representative**

**(iv) Company Secretary**

**(v) Engineering**



**(vi) Film Artist/Actor, Cameraman, Director, Singer, Story-writer, etc.**

**(vii) Interior Decoration**

**(viii) Legal**

**(ix) Medical  
Nursing Home ?**

**(x) Technical Consultancy**

**(xi) Information Technology**

## **XX. Sales, Turnover, Gross Receipts :**

- ◆ **Turnover**
- ◆ **Sales**
- ◆ **Goods returned, price adjustments, trade discounts, turnover discounts, bills cancelled**
- ◆ **Extra and ancillary charges**
- ◆ **Sales by a commission agent**



- ◆ **Profit on sale of license granted for exports**
- ◆ **Cash Assistance**
- ◆ **Duty drawback against exports**
- ◆ **Interest receive by a money lender**
  
- ◆ **Reimbursement of expenses**
- ◆ **Insurance claims**
- ◆ **Sale of scrap, wastage etc.**
- ◆ **Advance received and forfeited from customers**



- ◆ **Sale of fixed assets**
- ◆ **Sale of investments**
- ◆ **Rental income**
- ◆ **Dividend on shares**
- ◆ **Interest income**
- ◆ **Share of profit by a partner**
- ◆ **Write back of payables to creditors**





## **XXI. Professionals :**

- ◆ **Gross receipts**
- ◆ **Out of pocket expenses**

## **XXII. Business as well as profession**

## **XXIII. Turnover in shares and securities transactions**



**XXIV. Incomes of Non Residents**

**XXV. Earning exempt incomes**

**Charitable Trusts**

**Institutions enjoying exemptions**

**Agriculturist**



## XXVI. Amendments in 40A(3) :

### Amounts inadmissible u/s. 40A(3) :

- ◆ Account payee cheque/draft
- ◆ No deduction for payment except as provided
- ◆ Incurs any expenditure in respect of which payment in a sum exceeding Rs.20000/-
- ◆ Aggregate of payments on a single day
- ◆ Accrual method Expenditure in year I Payments in subsequent year(s)



## **Rule 6DD**

- ◆ **Due to practical difficulties in obtaining evidences**
- ◆ **In respect of A.Y. 2008-09 and onwards.**
- ◆ **Break up of inadmissible amount also to be given**
- ◆ **Certificate from the assessee**



**XXVII. Conversion of capital asset into stock in trade**

**XXVIII. VAT vis a vis valuation of**

- ◆ **purchases, sales and inventory under section 145A**
- ◆ **Input State-Level Value Added Tax (VAT) paid on purchases**
- ◆ **available for set off or refundable**



- ◆ **Inputs to be used for**
- ◆ **making taxable sales as well as for making exempt sales**
- ◆ **Stock transfer/consignment sale OMS : Estimate**
- ◆ **VAT Collection Not an income**
- ◆ **Payment of VAT not an expense**
- ◆ **VAT charged composite then segregate**
- ◆ **VAT Payable at the year end is a current liability**



- ◆ **Tax holiday allowing deferment for more than a year : LTL**
- ◆ **Requirement of section 145A out of books**

**XXIX. Amount inadmissible in terms of section 14A**

**XXX. 43B : Interest actually paid only allowable**

- ◆ **Converted interest whenever actually paid**
- ◆ **Funded Interest Term Loan (FITL)**
- ◆ **First interest then principal**

**XXXI. TDS related issues**

**XXXII. Inventory: Accounting: Valuation: Records**

**XXXIII. Quantitative details**

**XXXIV. Depreciation and related issues**



- ◆ XXXV. Missing Records
- ◆ XXXVI. Negative replies in Form 3 CD
- ◆ XXXVII. Items appearing in more than one clause
- ◆ XXXVIII. Changes in tax laws w.r.t clauses in 3 CD
- ◆ XXXIX. Books of account prescribed, maintained, examined





- ◆ XL. Loans & Deposits: Provisions of law vis a vis decided case laws
- ◆ XLI. Accounting Method, Accounting Policies
- ◆ XLII. Penalties : Compensatory vs. Punitive
- ◆ XLIII. Amount of interest inadmissible w.r.t. MSMED Act
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