



TAX AUDIT APPLICABILITY

Financial Year 2022-23
Assessment Year 2023-24

Tax Audit - Objectives & Responsibility

- Objectives :

- ❖ A tax audit is a process to verify whether the books of accounts prepared by a taxpayer comply with the generally accepted accounting principles and the provisions of the Income-tax Act. It is intended to ensure that the books of account and other records are properly maintained and correctly compute the taxpayer's true income. Such an audit also helps in checking fraudulent practices. A tax audit does not give the assessee any immunity from scrutiny assessment disallowance of expenses

- Responsibility :

- ❖ To express an opinion on the financial statements based on the audit conducted in accordance with the Standards issued by ICAI
- ❖ Obtaining sufficient and appropriate audit evidence
- ❖ To verify the statement of particulars required to be filed under Sec 44AB

In which form the tax audit report has to be obtained?

| <i>Category of Taxpayer</i> | <i>Form for Audit Report</i> | <i>Annexure to Audit Report</i> |
|--|------------------------------|---------------------------------|
| If the books of account of the assessee are required to be audited under any other law | Form 3CA | Form 3CD |
| In any other case | Form 3CB | Form 3CD |

SECTION 44AB

Audit of accounts of certain persons carrying on business or profession

SECTION 44AB

- Every person,
 - a) carrying on business shall, if his total sales, turnover or gross receipts, as the case may be, in business exceed or exceeds one crore rupees in any previous year
 - **Provided** that in the case of a person whose
 - a) aggregate of all amounts received including amount received for sales, turnover or gross receipts during the previous year, in cash, does not exceed five per cent of the said amount; and
 - b) aggregate of all payments made including amount incurred for expenditure, in cash, during the previous year does not exceed five per cent of the said payment,
 - this clause shall have effect as if for the words "one crore rupees", the words "ten crore rupees" had been substituted
 - **Provided further** that for the purposes of this clause, the payment or receipt, as the case may be, by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the payment or receipt, as the case may be, in cash; or
 - b) carrying on profession shall, if his gross receipts in profession exceed fifty lakh rupees in any previous year; or
 - c) carrying on the business shall, if the profits and gains from the business are deemed to be the profits and gains of such person under section 44AE or section 44BB or section 44BBB, as the case may be, and he has claimed his income to be lower than the profits or gains so deemed to be the profits and gains of his business, as the case may be, in any previous year; or

SECTION 44AB

- d) carrying on the profession shall, if the profits and gains from the profession are deemed to be the profits and gains of such person under section 44ADA and he has claimed such income to be lower than the profits and gains so deemed to be the profits and gains of his profession and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year; or
 - e) carrying on the business shall, if the provisions of sub-section (4) of section 44AD are applicable in his case and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year,
- get his accounts of such previous year audited by an accountant before the specified date and furnish by that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed :
 - **Provided** that this section shall not apply to the person, who declares profits and gains for the previous year in accordance with the provisions of sub-section (1) of section 44AD and his total sales, turnover or gross receipts, as the case may be, in business does not exceed two crore rupees in such previous year:
 - **Provided further** that this section shall not apply to the person, who derives income of the nature referred to in section 44B or section 44BBA, on and from the 1st day of April, 1985 or, as the case may be, the date on which the relevant section came into force, whichever is later :

SECTION 44AB

- **Provided also** that 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.
- *Explanation.*—For the purposes of this section,—
 - i. "accountant" shall have the same meaning as in the *Explanation* below sub-section (2) of section 288;
 - ii. "specified date", in relation to the accounts of the assessee of the previous year relevant to an assessment year, means date one month prior to the due date for furnishing the return of income under sub-section (1) of section 139.

4 & 8 Indirect tax Reg. Numbers & relevant clause of section 44AB



3CD Part-A info

Indirect Taxes Regn. Numbers

Indirect Tax law Details

Reg. No.

Enacting State, if applicable

44AB clause

a (Business)

b (Profession)

c (i-44AE case)

d (44ADA case)

e (44AD case)

Proviso to clause (a): Business turnover up to Rs. 10 crore

Third Proviso (Audited under other law)



SECTION 44AD

Special provision for computing profits and gains of business on presumptive basis

SECTION 44AD

- 1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an eligible assessee engaged in an eligible business, a sum equal to eight per cent of the total turnover or gross receipts of the assessee in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the eligible assessee, shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession" :
 - **Provided** that this sub-section shall have effect as if for the words "eight per cent", the words "six per cent" had been substituted, in respect of the amount of total turnover or gross receipts which is received by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account or through 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.
- 2) Any deduction allowable under the provisions of sections 30 to 38 shall, for the purposes of sub-section (1), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed.
- 3) The written down value of any asset of an eligible business shall be deemed to have been calculated as if the eligible assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

SECTION 44AD

- 4) Where an eligible assessee declares profit for any previous year in accordance with the provisions of this section and he declares profit for any of the five assessment years relevant to the previous year succeeding such previous year not in accordance with the provisions of sub-section (1), he shall not be eligible to claim the benefit of the provisions of this section for five assessment years subsequent to the assessment year relevant to the previous year in which the profit has not been declared in accordance with the provisions of sub-section (1).
- 5) Notwithstanding anything contained in the foregoing provisions of this section, an eligible assessee to whom the provisions of sub-section (4) are applicable and whose total income exceeds the maximum amount which is not chargeable to income-tax, shall be required to keep and maintain such books of account and other documents as required under sub-section (2) of section 44AA and get them audited and furnish a report of such audit as required under section 44AB.
- 6) The provisions of this section, notwithstanding anything contained in the foregoing provisions, shall not apply to—
 - i. a person carrying on profession as referred to in sub-section (1) of section 44AA;
 - ii. a person earning income in the nature of commission or brokerage; or
 - iii. a person carrying on any agency business.

SECTION 44AD

- *Explanation.*—For the purposes of this section,—
 - a) "eligible assessee" means,—
 - i. an individual, Hindu undivided family or a partnership firm, who is a resident, but not a limited liability partnership firm as defined under clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009); and
 - ii. who has not claimed deduction under any of the sections 10A, 10AA, 10B, 10BA or deduction under any provisions of Chapter VIA under the heading "*C. - Deductions in respect of certain incomes*" in the relevant assessment year;
 - b) "eligible business" means,—
 - i. any business except the business of plying, hiring or leasing goods carriages referred to in section 44AE; and
 - ii. whose total turnover or gross receipts in the previous year does not exceed an amount of two crore rupees.

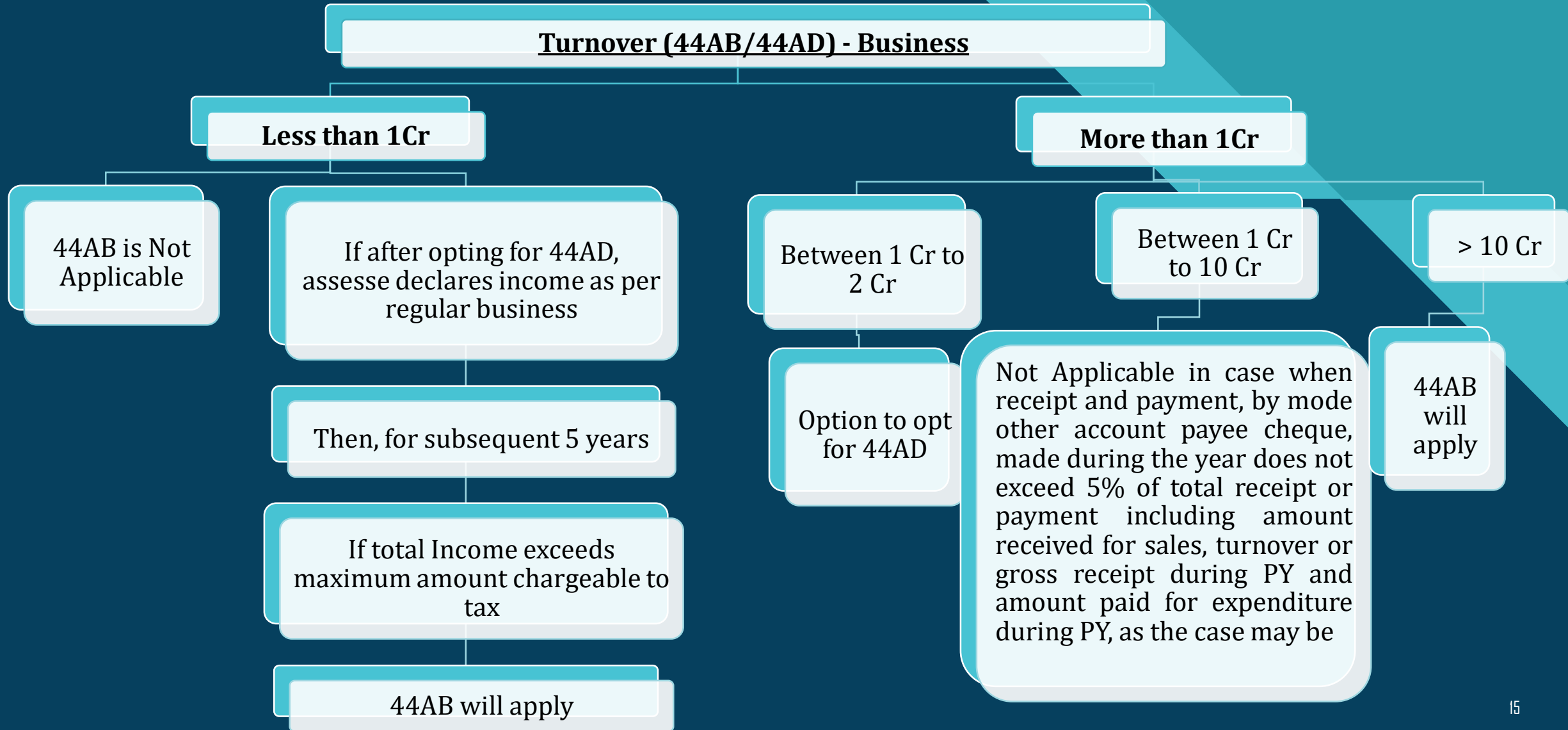
SECTION 44ADA

Special provision for computing profits and gains of profession on presumptive basis

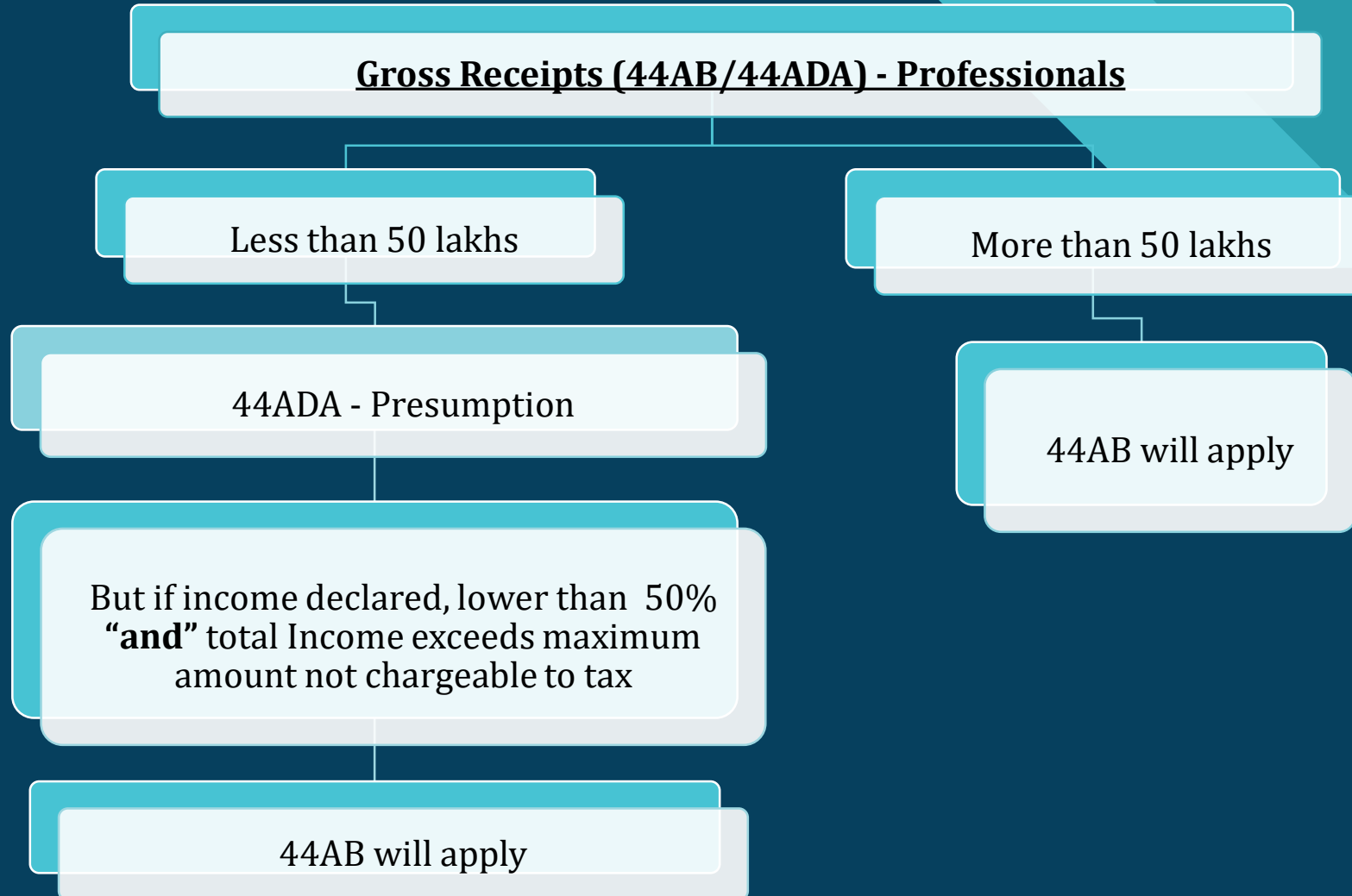
SECTION 44ADA

- 1) Notwithstanding anything contained in sections 28 to 43C, in case of an assessee, being an individual or a partnership firm other than a limited liability partnership as defined under clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009), who is a resident in India, and is engaged in a profession referred to in sub-section (1) of section 44AA and whose total gross receipts do not exceed fifty lakh rupees in a previous year, a sum equal to fifty per cent of the total gross receipts of the assessee in the previous year on account of such profession or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the assessee, shall be deemed to be the profits and gains of such profession chargeable to tax under the head "Profits and gains of business or profession"
- 2) Any deduction allowable under the provisions of sections 30 to 38 shall, for the purposes of sub-section (1), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed.
- 3) The written down value of any asset used for the purposes of profession shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.
- 4) Notwithstanding anything contained in the foregoing provisions of this section, an assessee who claims that his profits and gains from the profession are lower than the profits and gains specified in sub-section (1) and whose total income exceeds the maximum amount which is not chargeable to income-tax, shall be required to keep and maintain such books of account and other documents as required under sub-section (1) of section 44AA and get them audited and furnish a report of such audit as required under section 44AB.

AUDIT APPLICABILITY



AUDIT APPLICABILITY



FAQs

1) Can the professionals avail the benefit of the enhanced turnover limit of Rs. 10 Crore for the tax audit?

- NO. Clause (a) of Section 44AB talks about a person carrying on a business, whereas clause (b) talks about a person carrying on a profession. The *proviso* to Section 44AB providing the enhanced turnover limit of Rs. 10 crores for the tax audit is placed below clause (a) to Section 44AB. Thus, the persons engaged in the profession are not entitled to claim an enhanced turnover limit of Rs. 10 crores for the tax audit.

2) Is a salaried employee required to get accounts audited if he is also doing trading in derivatives such as futures and options?

- To check the applicability of tax audit in such cases, the turnover from trading in derivatives must be computed first. Since in F&O transactions, the trading shall be through digital means only, the enhanced limit of Rs. 10 crores shall apply to determine the applicability of tax audit.

• E.g.

| Transaction | Buy Value | Sell Value | Realised P & L | Computation of Turnover |
|---------------|-----------------------|-----------------------|----------------------|-------------------------|
| Transaction 1 | 40,00,000.00 | 50,00,000.00 | 10,00,000.00 | 10,00,000.00 |
| Transaction 2 | 60,00,000.00 | 30,00,000.00 | -30,00,000.00 | 30,00,000.00 |
| Transaction 3 | 75,00,000.00 | 60,00,000.00 | -15,00,000.00 | 15,00,000.00 |
| Transaction 4 | 3,20,00,000.00 | 2,00,00,000.00 | -1,20,00,000.00 | 1,20,00,000.00 |
| Transaction 5 | 2,30,00,000.00 | 3,30,00,000.00 | 1,00,00,000.00 | 1,00,00,000.00 |
| TOTAL | 7,25,00,000.00 | 6,70,00,000.00 | -55,00,000.00 | 2,75,00,000.00 |

FAQs

- 3) Mr. A, a resident of Dubai has a business in India trading in cloth. His turnover for the Financial Year 2022-23 is Rs. 1.5 Crores. Assuming that cash payments and receipts exceed 5% of total receipts and payments, can Mr. A opt for 44AD?**
- NO. Mr. A is ineligible to opt for section 44AD since he is not covered under the definition of “eligible assessee”. Consequently since his turnover exceeds the threshold limit under section 44AB, he is liable for Tax Audit under the proviso to clause (a) of 44AB.
- 4) Mr. B carries on business and his total turnover from the business is Rs. 1.96 Crores. He opted for presumptive taxation scheme and declared profit of Rs. 12.74 Lakhs. He derived his total turnover via account payee cheque. Is he required to get his books of accounts audited?**
- NO. Mr. B is eligible to opt for presumptive taxation under section 44AD and he is declaring a profit of 6.5% which is more than the minimum prescribed limit (6%)
- 5) Mr. X who is engaged in the business of trading of grocery items having a turnover of Rs 2.5 Crores. He is having an opinion that since he is an eligible assessee he can show profits up to 8% of his turnover & further he is not required to get his accounts audited u/s 44AB. Is he correct?**
- NO. Although Mr. X is an eligible assessee, his business is not an “eligible business” since it exceeds the threshold limit of Rs. 2 Crores. Further Mr. X is liable to get his accounts audited under section 44AB, under the proviso to clause (a) of 44AB.

FAQs

6) Mr. Y is a resident individual carrying out the following businesses and their turnover are as under:

Manufacturing Business : Rs. 130 Lakhs

Trading Business : Rs. 50 Lakhs

Running Coaching Classes : Rs. 30 Lakhs

Can Mr. Y opt for presumptive taxation under section 44AD ?

7) In case of Mr. A

FY 2020-21 : Turnover Rs. 1.5 Crores, declares income of Rs. 12 Lakhs (8% of 1.5 Crores) and opts for presumptive scheme under section 44AD

FY 2021-22 : Turnover Rs. 2.2 Crores

FY 2022-23 : Turnover Rs. 1.8 Crores

- **Is it possible for Mr. A to opt for section 44AD in FY 2022-23?**
- **If Mr. A declared a profit of Rs. 8.8 Lakhs (4% of 2.2 Crores) in FY 2021-22. Can he opt for 44AD in FY 2022-23?**

FAQs

8) Where an assessee carries on both business and profession:-

- **Case 1:**
Gross Receipts from Profession – Rs. 51 Lakhs
Turnover of Business – Rs. 45 Lakhs

Is Tax Audit applicable for only profession or both business and profession?

- **Case 2:**
Gross Receipts from Profession – Rs. 21 Lakhs
Turnover of Business – Rs. 86 Lakhs

Is Tax Audit applicable?

What is the penalty for not getting the accounts audited as required by section 44AB?

According to section 271B, if any person who is required to comply with section 44AB fails to get his accounts audited in respect of any year or years as required under section 44AB or furnish such report as required under section 44AB , the Assessing Officer may impose a penalty. The penalty shall be lower of the following amounts:

- a) 0.5% of the total sales, turnover or gross receipts, as the case may be, in business, or of the gross receipts in profession, in such year or years
- b) Rs. 1,50,000

However, according to section 271B , no penalty shall be imposed if reasonable cause for such failure is proved



Thank You