

Update on
Presumptive Taxation
u/s 44AD, 44ADA and 44AE
and
ITR Forms for Assessment Year 2020-21

1. Form ITR-1 [SAHAJ] is applicable to Individuals being a Resident (other than Not Ordinarily Resident) **having** Total Income upto Rs.50 lakhs, having Income from Salaries, One House Property, Other Sources (Interest etc.), and Agricultural Income up to Rs.5 thousand (Not for an Individual who is either Director in a company or has invested in Unlisted Equity Shares)
2. Form ITR-2 is applicable to Individuals and HUFs **not having** income from profits and gains of business or profession
3. Form ITR-3 is applicable to “Individual” and “HUF” **having** profits and gain of business of profession.
4. Form ITR-4 [SUGAM] is applicable to Individuals, HUFs and Firms (other than LLP) being a Resident having Total Income up to Rs.50 lakhs **and having** income from Business and Profession which is computed under sections 44AD, 44ADA or 44AE (Not for an Individual who is either Director in a company or has invested in Unlisted Equity Shares)
5. Form ITR-5 is applicable to persons **other than**:-
 - (i) Individual,
 - (ii) HUF,
 - (iii) Company **and**
 - (iv) Person filing Form ITR-7
6. Form ITR-6 is applicable to Companies **other than** companies claiming exemption under section 11.
7. Form ITR-7 is applicable to persons including Companies required to furnish returns:-
 - (i) under section 139(4A) **or**
 - (ii) under section 139(4B) **or**
 - (iii) under section 139(4C) **or**
 - (iv) under section 139(4D)
8. Following section of the Income Tax Act, 1961 *{hereinafter referred to as the Act}*, *inter alia*, provide law relating to **presumptive taxation**:
 - (i) section 44AD
 - (ii) section 44ADA
 - (iii) section 44AE
9. These sections create **deeming fictions**, which are also known as “**legal fictions**”
10. It means that ignoring the real income or loss, as the case may be, to deem certain amount as income chargeable to tax –

- (i) In the case of “eligible business” for a resident “eligible assessee” engaged in **business**, based on certain percentage of total sales, turnover or gross receipt on account of business.
 - (ii) In the case of a resident “assessee” engaged in profession, based on certain percentage of total receipts of **business**.
 - (iii) In the case of an “assessee” who owns not more than ten goods carriage at any time during the previous year **and** who is engaged the business of plying, hiring or leasing such **goods carriage** - based on certain amount per goods carriage.
11. Further, all these sections also provides **deeming fiction** in respect of allowance of deductions under the provisions of sections 30 to 38 of the Act and allowance of depreciation u/s 32 of the Act.
12. It means that according to these provisions, on availing the benefits of these sections, income shall be computed and assessed as provided therein **and** it shall be **deemed** that any deduction allowable under the provisions of sections 30 to 38 **and** depreciation allowance allowable under section 32 has been allowed.
13. However, for the purpose of **section 44AE**, proviso to sub-section (3) thereof provides that where the assessee is a firm, the **salary and interest paid to its partners** shall be deducted from the income computed u/s 44AE(1) subject to the conditions and limits specified in clause (b) to section 40 of the Act.

Benefits provided by section 44AD

14. As per the provisions of **section 44AD**, if an “**eligible assessee**” claims to have earned a sum **equal to 8% or higher than 8%** {as per proviso to sub-section (1) - 6%} of the total turnover **or** gross receipts **on account of “eligible business”**, **than** such sum shall be **deemed** to be the profits and gains of **such business** chargeable to tax under the head “Profit and gains of business or profession”. In such case sub-section (5) provides following **benefits**:
- (i) Such person shall **not** be required to **maintain** such **books of accounts** and other documents as are required u/s 44AA(2) of the Act.
 - (ii) Such person shall **not** be required to **get** such books of accounts **audited** as required u/s 44AB of the Act.
 - (iii) Such person shall **not** be required to **furnish report** of such **audit** as required u/s 44AB of the Act.

- (iv) Such person, being a resident individual or HUF, shall be allowed to furnish return of income under rule 12(1)(ca) in **Form SUGAM (ITR-4)**.
- (v) Such person, being a resident individual or HUF, shall **not** be required to disclose the financial details of such business in **Form SUGAM (ITR-4)** as per the books of accounts, and the balance sheet and profit & loss account, if any maintained, for such business.
- (vi) Such person, being a resident partnership firm (but not a LLP), though shall be allowed to furnish return of income under rule 12(1)(e) in **Form ITR-5**, yet shall **not** be required to disclose the financial details of such business in the return form as per the books of accounts, and the balance sheet and profit & loss account, if any maintained, for such business.
- (vii) As per the provisions of **section 211(1)(b)** of the Act, an assessee who declares profits and gains in accordance with the provisions of section 44AD(1), shall be required to pay whole of the amount of **advance** tax on or before 15th March of the financial year.

Benefits provided by section 44ADA

15. As per the provisions of **section 44ADA**, if an “*assessee*” claims to have earned a sum **equal to 50% or higher than 50%** of the total gross receipts of **profession referred to in section 44AA(1)** of the Act, **than** such sum shall be **deemed** to be the profits and gains of such business chargeable to tax under the head “Profit and gains of business or profession”. In such case sub-section (4) provides following **benefits**:
- (i) Such person shall **not** be required to **maintain** such **books of accounts** and other documents as are required u/s 44AA(2) of the Act.
 - (ii) Such person shall **not** be required to **get** such books of accounts **audited** as required u/s 44AB of the Act.
 - (iii) Such person shall **not** be required to **furnish report** of such **audit** as required u/s 44AB of the Act.
 - (iv) Such person, being a resident individual or HUF, shall be allowed to furnish return of income under rule 12(1)(ca) in **Form SUGAM (ITR-4)**.
 - (v) Such person, being a resident individual or HUF, shall **not** be required to disclose the financial details of such profession in **Form SUGAM (ITR-4)** as

per the books of accounts, and the balance sheet and profit & loss account, if any maintained, for such profession.

- (vi) Such person, being a resident partnership firm (including a LLP) , though shall be allowed to furnish return of income under rule 12(1)(e) in **Form ITR-5**, yet shall **not** be required to disclose the financial details of such profession in the return form as per the books of accounts, and the balance sheet and profit & loss account, if any maintained, for such profession.
- (vii) As per the provisions of **section 211(1)(b)** of the Act, an assessee who declares profits and gains in accordance with the provisions of section 44ADA(1), shall be required to pay whole of the amount of **advance tax** on or before 15th March of the financial year.

Benefits provided by section 44AE

16. As per the provisions of **section 44AE**, if an “*assessee*” who owns not more than ten goods carriages at any time during the previous year **and** who is engaged in the business of plying, hiring or leasing such goods carriage, the income of such business chargeable to tax under the head "Profits and gains of business or profession" shall be deemed to be the aggregate of the profits and gains, from all the goods carriages owned by him in the previous year, computed in accordance with the provisions of **sub-section (2)**. In such case sub-section (5) provides following **benefits**:
- (i) Such person shall **not** be required to **maintain** such **books of accounts** and other documents as are required u/s 44AA of the Act.
 - (ii) Such person shall **not** be required to **get** such books of accounts **audited** as required u/s 44AB of the Act.
 - (iii) Such person shall **not** be required to **furnish report** of such **audit** as required u/s 44AB of the Act.
 - (iv) Such person, being a resident individual or HUF, shall be allowed to furnish return of income under rule 12(1)(ca) in **Form SUGAM (ITR-4)**.
 - (v) Such person, being a resident individual or HUF, shall **not** be required to disclose the financial details of such profession in **Form SUGAM (ITR-4)** as per the books of accounts, and the balance sheet and profit & loss account, if any maintained, for such profession.
 - (vi) Such person, being a resident partnership firm (including a LLP), though shall be allowed to furnish return of income under rule 12(1)(e) in **Form ITR-5**, yet

shall **not** be required to disclose the financial details of such profession in the return form as per the books of accounts, and the balance sheet and profit & loss account, if any maintained, for such profession.

- (vii) Such person, being a resident partnership firm, shall be allowed deduction for salary and interest paid to partners subject to provisions of section 40(b) of the Act.
- (viii) Such person, being a resident company, though shall be allowed to furnish return of income under rule 12(1)(f) in **Form ITR-6**, yet shall **not** be required to disclose the financial details of such profession in the return form as per the books of accounts, and the balance sheet and profit & loss account, if any maintained, for such profession.

Selection of ITR Forms

- 17. **Form ITR-1 [SAHAJ]** is **not** applicable for declaring any income u/s 44AD, 44ADA or 44AE of the Act, it is not applicable for income under the head “Profits and gains of business or profession”.
- 18. **Form ITR-2** is **also not** applicable for declaring any income u/s 44AD, 44ADA or 44AE of the Act, it is not applicable for income under the head “Profits and gains of business or profession”.
- 19. **Form ITR-3** is applicable for declaring any income u/s 44AD, 44ADA **or** 44AE of the Act. It is applicable to “individual” **and** “HUF” if **Form ITR-4 [SUGAM]** is **not** applicable.
- 20. **Form ITR-4 [SUGAM]** is applicable for declaring any income u/s 44AD, 44ADA **or** 44AE of the Act **only** in the case of “Individual”, “HUF” and “Firm”. However, it is **neither** applicable to LLP **nor** to company.
- 21. However, if “Individual”, “HUF” and “Firm” has total income above Rs. 50 Lakh **or does not** otherwise qualify to use the **Form ITR-4 [SUGAM]** as provided in rule 12(1)(ca), **than**, such assessee shall use either **Form ITR-3 or Form ITR-5**, as the case may be.
- 22. **Form ITR-5** is applicable for declaring any income u/s 44AD, 44ADA **or** 44AE of the Act in the case of “firm”, *i.e.* a partnership firm.

LLP cannot declare income u/s 44AD

- 23. **Form ITR-5** is **also** applicable for declaring any income **u/s 44ADA or 44AE** of the Act in the case of “LLP”. It may be noted that “LLP” is excluded from the definition of an “eligible assessee” under the provisions of clause (i) of explanation (a) to section 44AD.

Company can declare income only u/s 44AE

24. **Form ITR-6** is applicable for declaring any income **only** under **section 44AE** of the Act in the case of a company.

Company cannot declare income u/s 44AD

25. It may be noted that **“company”** is not included in the definition of an “eligible assessee” under the provisions of clause (i) of explanation (a) to section 44AD. Therefore, a “company” **cannot** declare any income **u/s 44AD and** accordingly cannot use **Form ITR-6**.

Company cannot declare income u/s 44ADA

26. It may **also** be noted that **“company” cannot** declare any income **u/s 44ADA also and** accordingly cannot use **Form ITR-6**.
27. Section 44AD is applicable to an **“eligible assessee”** whereas section 44ADA is applicable to an “assessee”. In section 44AD **“company”** has been kept out from the definition of an “eligible assessee”, whereas for the purpose of section 44ADA, **“assessee”** includes a **“company”** by virtue of section 2(7) r.w. section 2(31)(iii) of the Act.
28. Now question arises, whether any profession can be carried in the status of **“Company”** as defined in section 2 of the Act or a **“Company”** can engage in any profession or whether a **‘Company’** can carry on profession?
29. **Section 44ADA** is applicable to a **profession** referred to in **section 44AA(1)** of the Act.
30. As per **section 44AA(1)**, legal, medical, engineering **or** architectural **profession or** the **profession** of accountancy **or** technical consultancy **or** interior decoration **or** any other **profession** as is notified by the Board in the Official Gazette, which are as follows:
- Professional in information technology
{Notification No. 116/2001 dated 4.5.2001}
 - Professional of company secretary
{Notification No. SO 2675 dated 25.9.1992}
- : 7 :
- Professional of authorised representative
{Notification No. SO 17(E) dated 12.1.1977}
31. An assessee, being a person – **“Company” cannot** be a professional. A company **cannot** be an advocate **or** a doctor **or** an engineer **or** an architect **or** a chartered accountant **or** a consultant **or** a company secretary **or** a film artist **etc.** However, a

“Company” can carry on such professional activities by engaging such professionals. Even in such case it **cannot** be said that such **“Company”** is engaged in any of such **profession**, on the contrary it will be terms as **business**.

32. Therefore, the provisions of **section 44ADA** are not applicable to **“Company”** assessee.
33. This view of fortified from the fact that income-tax return form for **“Company”** assessee, *i.e.* Form ITR-6, **does not** provide any field to declare presumptive income u/s 44ADA of the Act.
34. For this kindly refer to following **fields** of **Schedule BP** of Form ITR-6:

| | | | |
|---------------|--|---------------|---------------|
| A | Profit or loss included in 1, which is referred to in S. 44AE/44B/ 44BB/ 44BBA/ 44BBB/ 44D/ 44DA Chapter-XII-G/ First Schedule of Income tax Act(other than 115B) | 4a | 0 |
| SL.NO. | Section | | Amount |
| I | 44AE | 4ai | 0 |
| Ii | 44B | 4aii | 0 |
| Iii | 44BB | 4aiii | 0 |
| Iv | 44BBA | 4aiv | 0 |
| V | 44BBB | 4av | 0 |
| Vi | 44D | 4avi | 0 |
| Vii | 44DA | 4avii | 0 |
| Viii | Chapter-XII-G | 4aviii | 0 |
| Ix | First Schedule of Income Tax Act (other than 115B) | 4aix | 0 |

| | | | | | |
|-----------|---|---|-------------|--|----------|
| 37 | Profits and gains of business or profession deemed to be under | | | | |
| | i | Section 44AE(62(ii) of schedule P&L or 63(ii) of Ind As P&L) | i | | 0 |
| | ii | Section 44B | ii | | |
| | iii | Section 44BB | iii | | |
| | iv | Section 44BBA | iv | | |
| | v | Section 44BBB | v | | |
| | vi | Section 44D | vi | | |
| | vii | Section 44DA | vii | | |
| | viii | Chapter-XII-G (tonnage) | viii | | |
| ix | First Schedule of Income-tax Act(other than 115B) | ix | | | |

Compliance of certain fields in ITR Forms relating to presumptive taxation

35. **Form ITR-3** is applicable for declaring any income u/s 44AD, 44ADA **or** 44AE of the Act. It is applicable to “individual” **and** “HUF” if **Form ITR-4 [SUGAM]** is **not** applicable.
36. In this regards the relevant **fields of Form ITR-3** is as follows:

ITR 3 Assessment year 2020-21

**[For Individuals and HUFs having profit and gains of business of profession]
(Please see Rule 12 of the Income Tax-Rules,1962)**

Audit Information

| | | | |
|--------------|--|----------|--|
| a1 | Are you liable to maintain accounts as per section 44AA? (Select) | (Select) | |
| a2 | Whether assessee is declaring income only under section 44AE / 44B / 44BB / 44AD / 44ADA / 44BBA / 44BBB | (Select) | |
| a2i | If No , Whether during the year Total sales / turnover / gross receipts of business exceeds Rs. 1 crores but does not exceed Rs. 5 crores? | (Select) | |
| a2ii | If Yes is selected at a2i, whether aggregate of all amounts received including amount received for sales, turnover or gross receipts or on capital account like capital contributions, loans etc. during the previous year, in cash, does not exceed five per cent of said amount | | |
| a2iii | If Yes is selected at a2i, whether aggregate of all payments made including amount incurred for expenditure or on capital account such as asset acquisition, repayment of loans etc., in cash, during the previous year does not exceed five per | | |

| | | | | |
|----------|---|--|--|----------|
| | cent of the said payment | | | |
| B | Are you liable for audit under section 44AB? | | | (Select) |
| C | If liable for audit u/s 44AB, whether the accounts have been audited by an accountant? If yes, furnish the following information below | | | |

37. **Form ITR-4 [SUGAM]** is applicable for declaring any income u/s 44AD, 44ADA **or** 44AE of the Act **only** in the case of “Individual”, “HUF” and “Firm”. However, it is **neither** applicable to LLP **nor** to company.
38. However, if “Individual”, “HUF” and “Firm” has total income above Rs. 50 Lakh **or does not** otherwise qualify to use the **Form ITR-4 {SUGAM}** as provided in rule 12(1)(ca), **than**, such assessee shall use **either Form ITR-3 or Form ITR-5**, as the case may be.
39. The **head note** of **Form ITR-4 {SUGAM}** provides as follows:

| |
|--|
| <p>ITR 4[SUGAM] Assessment year 2020-21</p> <p>For Individuals, HUFs and Firms (other than LLP) being a resident having total income up to Rs. 50 Lakh and having income from business and profession which is computed under sections 44AD, 44ADA or 44AE</p> <p>Not for an individual who is either Director in a company or has invested in unlisted equity shares</p> |
|--|

40. **Form ITR-5** is applicable for declaring any income u/s 44AD, 44ADA **or** 44AE of the Act in the case of “firm”, *i.e.* a partnership firm. However, in the case of “**LLP**” **Form ITR-5** is applicable for declaring any income **only u/s 44ADA or 44AE** of the Act, because “**LLP**” is excluded from the definition of an “eligible assessee” under the provisions of clause (i) of explanation (a) to section 44AD.
41. In this regards the relevant **fields** of **Form ITR-5** is as follows:

ITR 5
Assessment year 2020-21

| |
|---|
| <p>[For persons other than,- (i) individual, (ii) HUF, (iii) company and (iv) person filing Form ITR-7] (Please see Rule 12 of the Income Tax-Rules,1962)</p> |
|---|

Audit Information

| | | |
|--------------|---|----------|
| a1 | Whether liable to maintain accounts as per section 44AA? | (Select) |
| a2 | Whether assessee is declaring income only under section 44AD / 44ADA / 44AE / 44B / 44BB / 44BBA? | (Select) |
| a2i | If No, whether during the year Total sales / turnover / gross receipts of business exceeds Rs. 1 crore but does not exceed Rs. 5 crores? | |
| a2ii | If Yes is selected at a2i, whether aggregate of all amounts received including amount received for sales, turnover or gross receipts or on capital account such as capital contribution, loans etc. during the previous year, in cash, does not exceed five per cent of the said amount? | |
| a2iii | If Yes is selected at a2i, whether aggregate of all payments made including amount incurred for expenditure or on capital account such as asset acquisition, repayment of loans etc. during the previous year, in cash, does not exceed five per cent of the said payment? | |
| B | Whether liable for audit under section 44AB? | (Select) |
| C | If liable for audit u/s 44AB, whether the accounts have been audited by an accountant? If yes, furnish the following information below | (Select) |

42. In **Form ITR 3 and Form ITR 5** pertaining to assessment year 2020-21 notified u/s 139(1) r.w. rule 12, above mentioned **fields** are provided for reporting and disclosure under the **field** "**Audit Information**".
43. These are all mandatory fields.
44. These are being discussed hereunder one by one in conjugation with relevant provisions of the Act to apprehend and facilitate the compliance in accordance with law.

| | |
|-----------|---|
| a1 | Whether liable to maintain accounts as per section 44AA? |
|-----------|---|

45. Reply to this **field**, which is as follows, is to be provided in affirmative **or** negative, as the case may be.

| | | |
|-----------|---|----------|
| a1 | Whether liable to maintain accounts as per section 44AA? | (Select) |
|-----------|---|----------|

46. If the assessee firm is required to maintain books of accounts u/s 44AA of the Act, the reply shall be **“Y-Yes”**.

| | | |
|-----------|---|-------|
| a1 | Whether liable to maintain accounts as per section 44AA? | Y-Yes |
|-----------|---|-------|

47. If the assessee is **not** required to maintain books of accounts u/s 44AA of the Act, the reply shall be **“N-No”**.

| | | |
|-----------|---|------|
| a1 | Whether liable to maintain accounts as per section 44AA? | Y-No |
|-----------|---|------|

| | |
|-----------|--|
| a2 | Whether assessee is declaring income “only” under section 44AD / 44ADA / 44AE / 44B / 44BB / 44BBA? |
|-----------|--|

48. Reply to this **field**, which is as follows, **also** to be provided in affirmative **or** negative, as the case may be.

| | | |
|-----------|--|----------|
| a2 | Whether assessee is declaring income only under section 44AD/44ADA/44AE/44B/44BB/44BBA? | (Select) |
|-----------|--|----------|

49. If the assessee **is declaring** income under any of the following sections of the which is the **“only”** income under the “Profits and gains of business or profession”, the reply shall be **“Y-Yes”**:

- (i) Section 44AD
- (ii) Section 44ADA
- (iii) Section 44AE
- (iv) Section 44B
- (v) Section 44BB
- (vi) Section 44BBA

50. For the purposes of this study, the above sections are being referred to as **“the sections of presumptive income”**.
51. In such situation (as explained 49 above), the filed **“a2i”** shall be **blocked**, as follows, because field **“a2i”** is activated when reply to field **“a2”** is **“No”**. Accordingly fields **“a2ii” and “a2iii”** will be blocked.

| | | |
|--------------|---|-------|
| a2 | Whether assessee is declaring income “only” under section 44AD / 44ADA /44AE / 44B / 44BB / 44BBA? | Y-Yes |
| a2i | If “No”, whether during the year Total sales / turnover / gross receipts of business exceeds Rs. 1 crore but does not exceed Rs. 5 crores? | |
| a2ii | If Yes is selected at a2i, whether aggregate of all amounts received including amount received for sales, turnover or gross receipts or on capital account such as capital contribution, loans etc. during the previous year, in cash, does not exceed five per cent of the said amount? | |
| a2iii | If Yes is selected at a2i, whether aggregate of all payments made including amount incurred for expenditure or on capital account such as asset acquisition, repayment of loans etc. during the previous year, in cash, does not exceed five per cent of the said payment? | |

52. If the assessee is **not declaring** income **“only”** under any of the above sections of the Act, which is the income under the “Profits and gains of business or profession”, the reply shall be **“N-No”**.
53. It means that if such assessee is declaring income under the head “Profits and gains of business or profession” under any of the above sections of presumptive income **as well as** income **not** falling under any of the above sections of presumptive income, the reply shall be **“N-No”**.
54. Similarly, if the assessee is **not declaring any** income under **any** of the above sections of presumptive income, the reply shall **again** be **“N-No”**.
55. In such situation (as explained in para 52 to 54 above), the filed **“a2i”** shall be **activated**, as follows, because field **“a2i”** is applicable when reply to field **“a2”** is **“N-No”**.

| | | |
|-----------|---|------|
| a2 | Whether assessee is declaring income “only” under section 44AD / 44ADA /44AE / 44B / 44BB / 44BBA? | N-No |
|-----------|---|------|

| | | |
|-----|--|--|
| a2i | <p>If “No”, whether during the year Total sales / turnover / gross receipts of business exceeds Rs.1 crore but does not exceed Rs.5 crores?</p> | |
|-----|--|--|

56. It means that in field “a2” reply “Y-Yes” can be selected when the assessee firm is declaring business income “only” under section 44AD / 44ADA / 44AE / 44B / 44BB / 44BBA.
57. The provisions of “the sections of presumptive income” *does not apply* when –
- the assessee *does not* declare income in accordance with the provisions of these sections **or**
 - his sales, turnover **or** gross receipts are *more than* the thresholds provided therein **or**
 - he carries on such business **or** professional activities to which these sections *does not* apply.

Section 44AD is not applicable

58. The provisions of section 44AD(1) *shall not apply* in the following *circumstances*:
- (i) If such person is carrying on any profession as specified u/s 44AA(1) of the Act. {Section 44AD(6)(i)}
- Comments**
- It means that if such person has carried on any of the professions specified u/s 44AA(1), he can not avail the benefits of section 44AD(1). However, such person shall be covered by the provisions of section 44ADA.
- (ii) If such person is earning income *in the nature of commission*. {Section 44AD(6)(ii)} **or**
- (iii) If such person is earning income *in the nature of brokerage*. {Section 44AD(6)(ii)} **or**

Comments

The expressions “*in the nature of commission*” and “*in the nature of brokerage*” are **neither** defined in section 44AD **nor** in the Act. These expressions are different from the words “*commission*” and “*brokerage*”. It means that if such person has earned any income which is **either** “*in the nature of commission*” or “*in the nature of brokerage*”, **but** such person has accounted for or recorded such income otherwise than in the nomenclature of “*commission*” or “*brokerage*”, even **than** the provisions of section 44AD(1) will not apply **and** accordingly such person will not be able to take benefits of this section.

- (iv) If such person is carrying on **any agency business**.
{Section 44AD(6)(iii)}

Comments

The expressions “*agency business*” is **neither** defined in section 44AD **nor** in the Act. It may be noted that the concept of earning of income “*in the nature of commission*” and “*in the nature of brokerage*” may be different from the concept of “*carrying of any agency business*”. Therefore, the provisions of section 44AD(1) shall **not** apply if such person-

- earns any income “*in the nature of commission*” or
- earns any income “*in the nature of brokerage*” or
- carry on “*any agency business*”.

- (v) If such person has claimed deduction **u/s 10A** of the Act in the relevant assessment year.
{Clause (a)(ii) of Explanation to section 44AD}
- (vi) If such person has claimed deduction **u/s 10AA** of the Act in the relevant assessment year.
{Clause (a)(ii) of Explanation to section 44AD}
- (vii) If such person has claimed deduction **u/s 10B** of the Act in the relevant assessment year.
{Clause (a)(ii) of Explanation to section 44AD}
- (viii) If such person has claimed deduction **u/s 10BA** of the Act in the relevant assessment year.
{Clause (a)(ii) of Explanation to section 44AD}

- (ix) If such person has claimed deduction under any provisions of **Chapter VIA** under the heading “**C-Deductions in respect of certain incomes**” in the relevant assessment year.
{Clause (a)(ii) of Explanation to section 44AD}
- (x) If such person is carrying on business or plying, hiring or leasing goods carriages referred to in **section 44AE**.
{Clause (b)(i) of Explanation to section 44AD}
- (xi) If such person is **not** covered by any of the above conditions **and** whose turnover or gross receipts in the previous year **exceeds** an amount of Rs. 2 crore. {Clause (b)(ii) of Explanation to section 44AD}
- (xii) If such person is not covered by any of the above conditions **but** who declares income **below** 8% **or** 6%, as the case may be, of total turnover **or** gross receipts on account of such business.
{Section 44AD(1) r.w. section 44AD(5)}

Section 44ADA is not applicable

59. The provisions of section 44ADA(1) **shall not apply** in the following **circumstances**:
- (i) If such person is carrying on any profession **other than** the profession as specified u/s 44AA(1) of the Act. {Section 44ADA(1)}

Comments

It means that if such person has carried on any profession **but not** any of the professions specified u/s 44AA(1), he can not avail the benefits of section 44ADA(1).

- (ii) If such person is **not** covered by the above condition **and** whose total gross receipts in the previous year **exceeds** an amount of Rs. 50 Lakh.
{Section 44ADA(1)}
- (iii) If such person is **not** covered by any of the above conditions **but** who declares income **below** 50% of total gross receipts in such profession.
{Section 44ADA(1) r.w. section 44ADA(4)}
- (iv) If such person is a **company**.

Section 44AE is not applicable

60. The provisions of section 44AE(1) **shall not apply** in the following **circumstances**:
- (i) If such person **owns** (as clarified in clause (b) of *Explanation* to section 44AE) **more than** ten “**goods carriages**” (as defined in clause (a) of *Explanation* to section 44AE) of the Act at any time during the previous year.
{Section 44AE(1)}
 - (ii) If such person **owns not more than** ten “**goods carriages**” at any time during the previous year **but is not** engaged in the business of plying, hiring or leasing of such goods carriage.
{Section 44AE(1)}
 - (iii) If such person is **not** covered by any of the above conditions **and** but who declares lower profits and gains than the profits and gains specified in sub-section (1) and (2) of section 44AE as income from such goods carriages.
{Section 44AE(1) & (2) r.w. section 44AE(7)}

In case the assessee is declaring income “only” under section 44AD / 44ADA / 44AE / 44B / 44BB / 44BBA.

61. In case the assessee is declaring income “**only**” u/s 44AD **or** 44ADA **or** 44AE *etc.*, **and** selects “**Y-Yes**” in the **field “a2”**, then, such assessee shall **not** be required to maintain books of accounts u/s 44AA of the Act.
62. In such situation in the following **field “a1”**, reply shall be “**N-No**”.

| | | |
|-----------|---|------|
| a1 | Whether liable to maintain accounts as per section 44AA? | N-No |
|-----------|---|------|

63. It may not be out of place to mention that, notwithstanding the fact that such assessee shall not be required to maintain books of accounts u/s 44AA of the Act, but still may be required to maintain books of accounts under GST Laws **or** the Companies Act, 2013 or under any other relevant law. **Despite** having maintained books of accounts under these laws, for the purposes of section 44AD **or** 44ADA **or** 44AE, such assessee shall be required to furnish the required financial details **instead of** complete Balance Sheet and Profit & Loss Accounts.

| | |
|------------|---|
| a2i | If “No”, whether during the year Total sales / turnover / gross receipts of business exceeds Rs. 1 crore but does not exceed Rs. 5 crores? |
|------------|---|

64. If such assessee selects “N-No” in field “a2”, then he will be required to reply field “a2i”.
65. Selection of “N-No” in field “a2” means that such assessee is **not** covered by the provisions of sections 44AD **or** 44ADA **or** 44AE.
66. This could be for any of the reasons explained hereinabove respectively.
67. In such situation, for the purposes of **section 44AB(a){Business}**, such assessee is required to reply field “a2i”, which applies to assessee carrying **on business**.
68. As per the provisions of **section 44AB(a)** of the Act, every person carrying on **business**, shall get his accounts audit **and** furnish the report of such audit along with the prescribed particulars in **Form 3CA- Form 3CD or Form 3CB – Form 3CD**, as the case may be, if his total sales, turnover or gross receipts in business, as the case may be, in business, exceed or exceeds Rs. 1 crore in any previous year.
69. It means that that in the case of **business**, if total sales, turnover or gross receipts in business **does not exceed** Rs. 1 crore **and** assessee is an eligible assessee in terms of section 44AD(6), **and** such assessee declares profit from such business **equal to or higher** than 8% **or** 6%, as the case may be, he shall **not** be required to get his accounts audited u/s 44AB(a) of the Act.
70. However, if total sales, turnover or gross receipts in business **exceeds** Rs. 1 crore **but is less than** Rs. 2 crore, **and** such assessee is an eligible assessee in terms of section 44AD(6), **but** such assessee declares profit from such business **lower** than 8% **or** 6%, as the case may be, he **shall be required** to get his accounts audited u/s 44AB(a) of the Act.
71. However, the Finance Act, 2020 has provided relaxation to this provision by inserting a *proviso* in clause (a) w.e.f. 1.4.2020 (AY 2020-21), which reads as follows:

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 "five crore rupees" had been substituted; or

72. It means that if total sales, turnover or gross receipts in business **does not** exceed Rs. 5 crore **and** 95% **or** more of **all receipts and** 95% **or** more of **all payments** are **otherwise than in cash**, such assessee shall **not** be required to get its accounts audited in terms of section 44AB(a) of the Act, because for the threshold of Rs. 1 crore mentioned in the main provision of clause (a) of section 44AB, threshold of Rs. 5 crore shall be **substituted**.
73. However, if total sales, turnover or gross receipts in business exceeds Rs. 1 crore and **does not** exceed Rs. 5 crore **but** 95% **or** more of **all receipts and** 95% **or** more of **all payments** are **not otherwise than in cash**, then such assessee shall be required to get its accounts audited in terms of section 44AB(a) of the Act, because in such situation for the threshold of Rs. 1 crore mentioned in the main provision of clause (a) of section 44AB, threshold of Rs. 5 crore shall **not** be **substituted**. It shall remain Rs. 1 crore.

Illustrations

Illustration No. 1

| | |
|---|----------------------|
| (a) total sales, turnover or gross receipts in business | Rs. 5 crore |
| (b) Section 44AD(1) is not applicable for any of the reasons | |
| (c) Percentage of all receipts in cash | 5% |
| (d) Percentage of all payments in cash | 5% |
| (e) Section 44AB(a) shall not be applicable | Not liable for audit |

In such situation the relevant **fields** of the **Form ITRs** shall be filled as follows:

| | | |
|--------------|---|-------|
| a1 | Whether liable to maintain accounts as per section 44AA? | Y-Yes |
| a2 | Whether assessee is declaring income only under section 44AD / 44ADA/ 44AE/ 44B/ 44BB/ 44BBA? | N-No |
| a2i | If No, whether during the year Total sales / turnover / gross receipts of business exceeds Rs.1 crore but does not exceed Rs.5 crores? | Y-Yes |
| a2ii | If Yes is selected at a2i, whether aggregate of all amounts received including amount received for sales, turnover or gross receipts or on capital account such as capital contribution, loans etc. during the previous year, in cash, does not exceed five per cent of the said amount? | N-No |
| a2iii | If Yes is selected at a2i, whether aggregate of all payments made including amount incurred for expenditure or on capital account such as asset acquisition, repayment of loans etc. during the previous year, in cash, does not exceed five per cent of the said payment? | N-No |

| | | |
|----------|---|------|
| | | |
| B | Whether liable for audit under section 44AB? | N-No |
| C | If liable for audit u/s 44AB, whether the accounts have been audited by an accountant? If yes, furnish the following information below | |

Illustration No. 2

- (a) total sales, turnover or gross receipts in business Rs. 1.20 crore
 (b) Section 44AD(1) is **not** applicable for any of the reasons
 (c) Percentage of all receipts in cash 6%
 (d) Percentage of all payments in cash 5%
 (e) Section 44AB(a) shall be applicable Liable for audit

In such situation the relevant **fields** of the **Form ITRs** shall be filled as follows:

| | | |
|--------------|---|-------|
| a1 | Whether liable to maintain accounts as per section 44AA? | Y-Yes |
| a2 | Whether assessee is declaring income only under section 44AD / 44ADA/ 44AE/ 44B/ 44BB/ 44BBA? | N-No |
| a2i | If No, whether during the year Total sales/ turnover / gross receipts of business exceeds Rs.1 crore but does not exceed Rs.5 crores? | Y-Yes |
| a2ii | If Yes is selected at a2i, whether aggregate of all amounts received including amount received for sales, turnover or gross receipts or on capital account such as capital contribution, loans etc. during the previous year, in cash, does not exceed five per cent of the said amount? | Y-Yes |
| a2iii | If Yes is selected at a2i, whether aggregate of all payments made including amount incurred for expenditure or on capital account such as asset acquisition, repayment of loans etc. during the previous year, in cash, does not exceed five per cent of the said payment? | N-No |
| B | Whether liable for audit under section 44AB? | Y-Yes |
| C | If liable for audit u/s 44AB, whether the accounts have been audited by an accountant? If yes, furnish the following information below | Y-Yes |

Illustration No. 3

- (a) total sales, turnover or gross receipts in business Rs. 1.20 crore
(b) Section 44AD(1) is **not** applicable for any of the reasons
(c) Percentage of all receipts in cash 5%
(d) Percentage of all payments in cash 6%
(e) Section 44AB(a) shall be applicable Liable for audit

In such situation the relevant **fields** of the **Form ITRs** shall be filled as follows:

| | | |
|--------------|---|-------|
| a1 | Whether liable to maintain accounts as per section 44AA? | Y-Yes |
| a2 | Whether assessee is declaring income only under section 44AD / 44ADA/ 44AE/ 44B/ 44BB/ 44BBA? | N-No |
| a2i | If No, whether during the year Total sales/ turnover / gross receipts of business exceeds Rs.1 crore but does not exceed Rs.5 crores? | Y-Yes |
| a2ii | If Yes is selected at a2i, whether aggregate of all amounts received including amount received for sales, turnover or gross receipts or on capital account such as capital contribution, loans etc. during the previous year, in cash, does not exceed five per cent of the said amount? | N-No |
| a2iii | If Yes is selected at a2i, whether aggregate of all payments made including amount incurred for expenditure or on capital account such as asset acquisition, repayment of loans etc. during the previous year, in cash, does not exceed five per cent of the said payment? | Y-Yes |
| B | Whether liable for audit under section 44AB? | Y-Yes |
| C | If liable for audit u/s 44AB, whether the accounts have been audited by an accountant? If yes, furnish the following information below | Y-Yes |

Illustration No. 4

| | |
|---|------------------|
| (a) total sales, turnover or gross receipts in business | Rs. 1.20 crore |
| (b) Section 44AD(1) is not applicable for any of the reasons | |
| (c) Percentage of all receipts in cash | 6% |
| (d) Percentage of all payments in cash | 6% |
| (e) Section 44AB(a) shall be applicable | Liable for audit |

In such situation the relevant **fields** of the **Form ITRs** shall be filled as follows:

| | | |
|--------------|---|-------|
| a1 | Whether liable to maintain accounts as per section 44AA? | Y-Yes |
| a2 | Whether assessee is declaring income only under section 44AD / 44ADA/ 44AE/ 44B/ 44BB/ 44BBA? | N-No |
| a2i | If No, whether during the year Total sales/ turnover / gross receipts of business exceeds Rs.1 crore but does not exceed Rs.5 crores? | Y-Yes |
| a2ii | If Yes is selected at a2i, whether aggregate of all amounts received including amount received for sales, turnover or gross receipts or on capital account such as capital contribution, loans etc. during the previous year, in cash, does not exceed five per cent of the said amount? | Y-Yes |
| a2iii | If Yes is selected at a2i, whether aggregate of all payments made including amount incurred for expenditure or on capital account such as asset acquisition, repayment of loans etc. during the previous year, in cash, does not exceed five per cent of the said payment? | Y-Yes |
| B | Whether liable for audit under section 44AB? | Y-Yes |
| C | If liable for audit u/s 44AB, whether the accounts have been audited by an accountant? If yes, furnish the following information below | Y-Yes |

Illustration No. 5

| | |
|---|------------------|
| (a) total sales, turnover or gross receipts in business | Rs. 5.10 crore |
| (b) Section 44AD(1) is not applicable for any reason | |
| (c) Percentage of all receipts in cash | 5% |
| (d) Percentage of all payments in cash | 5% |
| (e) Section 44AB(a) shall be applicable | Liable for audit |

Since total sales, turnover or gross receipts in business *exceeds* Rs. 5 crore, therefore, irrespective of the fact that *all receipts and all payments* in cash *does not* exceed 5% respectively, such assessee shall be required to get its accounts audited u/s 44AB(a) of the Act.

In such situation the relevant **fields** of the **Form ITRs** shall be filled as follows:

| | | |
|--------------|---|-------|
| a1 | Whether liable to maintain accounts as per section 44AA? | Y-Yes |
| a2 | Whether assessee is declaring income only under section 44AD / 44ADA / 44AE/ 44B / 44BB / 44BBA? | N-No |
| a2i | If No, whether during the year Total sales / turnover / gross receipts of business exceeds Rs. 1 crore but does not exceed Rs. 5 crores? | N-No |
| a2ii | If Yes is selected at a2i, whether aggregate of all amounts received including amount received for sales, turnover or gross receipts or on capital account such as capital contribution, loans etc. during the previous year, in cash, does not exceed five per cent of the said amount? | |
| a2iii | If Yes is selected at a2i, whether aggregate of all payments made including amount incurred for expenditure or on capital account such as asset acquisition, repayment of loans etc. during the previous year, in cash, does not exceed five per cent of the said payment? | |
| B | Whether liable for audit under section 44AB? | Y-Yes |
| C | If liable for audit u/s 44AB, whether the accounts have been audited by an accountant? If yes, furnish the following information below | Y-Yes |

Illustration No. 6

- | | |
|---|------------------|
| (a) total sales, turnover or gross receipts in business | Rs. 90 Lakh |
| (b) Section 44AD(1) is not applicable for any of the reasons | |
| (c) Percentage of all receipts in cash | 5% |
| (d) Percentage of all payments in cash | 5% |
| (e) Section 44AB(e) shall be applicable | Liable for audit |

In this case the *proviso* to section 44AB(a) shall **not** be applicable irrespective of the fact that *all receipts and all payments* in cash *does not* exceed 5% respectively, as the total sales, turnover or gross receipts in business is Rs. 90 Lakh, which is *less than*

Rs. 1 crore as provided in the main provision of clause (a) of section 44AB. The *proviso* to section 44AB(a) shall apply only when total sales, turnover or gross receipts in business exceed or exceeds Rs. 1 crore.

In such situation the relevant **fields** of the **Form ITRs** shall be filled as follows:

| | | |
|--------------|---|-------|
| a1 | Whether liable to maintain accounts as per section 44AA? | Y-Yes |
| a2 | Whether assessee is declaring income only under section 44AD / 44ADA / 44AE/ 44B / 44BB / 44BBA? | N-No |
| a2i | If No, whether during the year Total sales / turnover / gross receipts of business exceeds Rs. 1 crore but does not exceed Rs. 5 crores? | N-No |
| a2ii | If Yes is selected at a2i, whether aggregate of all amounts received including amount received for sales, turnover or gross receipts or on capital account such as capital contribution, loans etc. during the previous year, in cash, does not exceed five per cent of the said amount? | |
| a2iii | If Yes is selected at a2i, whether aggregate of all payments made including amount incurred for expenditure or on capital account such as asset acquisition, repayment of loans etc. during the previous year, in cash, does not exceed five per cent of the said payment? | |
| B | Whether liable for audit under section 44AB? | Y-Yes |
| C | f liable for audit u/s 44AB, whether the accounts have been audited by an accountant? If yes, furnish the following information below | Y-Yes |

Illustration No. 7

- | | |
|---|------------------|
| (a) total sales, turnover or gross receipts in business | Rs. 90 Lakh |
| (b) Section 44AD(1) is not applicable for any of the reasons | |
| (c) Percentage of all receipts in cash | 7% |
| (d) Percentage of all payments in cash | 5% |
| (e) Section 44AB(e) shall be applicable | Liable for audit |

In this case the proviso to section 44AB(a) shall **not** be applicable as the total sales, turnover or gross receipts in business is Rs. 90 Lakh, which is *less than* Rs. 1 crore as provided in the main provision of clause (a) of section 44AB. The *proviso* to section

44AB(a) shall apply only when total sales, turnover or gross receipts in business exceed or exceeds Rs. 1 crore. In such case mode of receipts and payments shall not be any criteria.

In such situation the relevant **fields** of the **Form ITRs** shall be filled as follows:

| | | |
|--------------|---|-------|
| a1 | Whether liable to maintain accounts as per section 44AA? | Y-Yes |
| a2 | Whether assessee is declaring income only under section 44AD / 44ADA / 44AE/ 44B / 44BB / 44BBA? | N-No |
| a2i | If No, whether during the year Total sales / turnover / gross receipts of business exceeds Rs. 1 crore but does not exceed Rs. 5 crores? | N-No |
| a2ii | If Yes is selected at a2i, whether aggregate of all amounts received including amount received for sales, turnover or gross receipts or on capital account such as capital contribution, loans etc. during the previous year, in cash, does not exceed five per cent of the said amount? | |
| a2iii | If Yes is selected at a2i, whether aggregate of all payments made including amount incurred for expenditure or on capital account such as asset acquisition, repayment of loans etc. during the previous year, in cash, does not exceed five per cent of the said payment? | |
| B | Whether liable for audit under section 44AB? | Y-Yes |
| C | f liable for audit u/s 44AB, whether the accounts have been audited by an accountant? If yes, furnish the following information below | Y-Yes |

Illustration No. 8

- | | |
|---|------------------|
| (a) total sales, turnover or gross receipts in business | Rs. 90 Lakh |
| (b) Section 44AD(1) is not applicable for any of the reasons | |
| (c) Percentage of all receipts in cash | 5% |
| (d) Percentage of all payments in cash | 7% |
| (e) Section 44AB(e) shall be applicable | Liable for audit |

In this case the proviso to section 44AB(a) shall **not** be applicable as the total sales, turnover or gross receipts in business is Rs. 90 Lakh, which is **less than** Rs. 1 crore as provided in the main provision of clause (a) of section 44AB. The **proviso** to section

44AB(a) shall apply only when total sales, turnover or gross receipts in business exceed or exceeds Rs. 1 crore. In such case mode of receipts and payments shall not be any criteria.

In such situation the relevant **fields** of the **Form ITRs** shall be filled as follows:

| | | |
|--------------|---|-------|
| a1 | Whether liable to maintain accounts as per section 44AA? | Y-Yes |
| a2 | Whether assessee is declaring income only under section 44AD / 44ADA / 44AE/ 44B / 44BB / 44BBA? | N-No |
| a2i | If No, whether during the year Total sales / turnover / gross receipts of business exceeds Rs. 1 crore but does not exceed Rs. 5 crores? | N-No |
| a2ii | If Yes is selected at a2i, whether aggregate of all amounts received including amount received for sales, turnover or gross receipts or on capital account such as capital contribution, loans etc. during the previous year, in cash, does not exceed five per cent of the said amount? | |
| a2iii | If Yes is selected at a2i, whether aggregate of all payments made including amount incurred for expenditure or on capital account such as asset acquisition, repayment of loans etc. during the previous year, in cash, does not exceed five per cent of the said payment? | |
| B | Whether liable for audit under section 44AB? | Y-Yes |
| C | If liable for audit u/s 44AB, whether the accounts have been audited by an accountant? If yes, furnish the following information below | Y-Yes |

Illustration No. 9

| | |
|--|----------------------|
| (a) total sales, turnover or gross receipts in business | Rs. 90 Lakh |
| (b) Section 44AD(1) is applicable | |
| (c) Percentage of profit in case of cash receipts | 8% |
| (d) Percentage of profit in case of other than cash receipts | 6% |
| (e) Section 44AD(5) & 44AB(e) shall not be applicable | Not Liable for audit |

In this case the *proviso* to section 44AB(a) shall **not** be applicable as the total sales, turnover or gross receipts in business is Rs. 90 Lakh, which is *less than* Rs. 1 crore as provided in the main provision of clause (a) of section 44AB. The *proviso* to section

44AB(a) shall apply only when total sales, turnover or gross receipts in business exceed or exceeds Rs. 1 crore. Since the provisions of section 44AD(1) are applicable and profit is declared equal to the prescribed percentages, **no** audit is required u/s 44AD(5) and u/s 40AB(e).

In such situation the relevant **fields** of the **Form ITRs** shall be filled as follows:

| | | |
|--------------|---|-------|
| a1 | Whether liable to maintain accounts as per section 44AA? | N-No |
| a2 | Whether assessee is declaring income only under section 44AD / 44ADA / 44AE / 44B / 44BB / 44BBA? | Y-Yes |
| a2i | If No, whether during the year Total sales / turnover / gross receipts of business exceeds Rs. 1 crore but does not exceed Rs. 5 crores? | |
| a2ii | If Yes is selected at a2i, whether aggregate of all amounts received including amount received for sales, turnover or gross receipts or on capital account such as capital contribution, loans etc. during the previous year, in cash, does not exceed five per cent of the said amount? | |
| a2iii | If Yes is selected at a2i, whether aggregate of all payments made including amount incurred for expenditure or on capital account such as asset acquisition, repayment of loans etc. during the previous year, in cash, does not exceed five per cent of the said payment? | |
| B | Whether liable for audit under section 44AB? | N-No |
| C | If liable for audit u/s 44AB, whether the accounts have been audited by an accountant? If yes, furnish the following information below | |

Illustration No. 10

| | |
|--|----------------------|
| (a) total sales, turnover or gross receipts in business | Rs. 1.90 Lakh |
| (b) Section 44AD(1) is applicable | |
| (c) Percentage of profit in case of cash receipts | 8% |
| (d) Percentage of profit in case of other than cash receipts | 6% |
| (e) Section 44AD(5) & 44AB(e) shall not be applicable | Not Liable for audit |

In this case the *proviso* to section 44AB(a) shall **not** be applicable despite the fact that the total sales, turnover or gross receipts in business is Rs. 1.90 lakh, which is *more*

than Rs. 1 crore as provided in the main provision of clause (a) of section 44AB. However, since it is **less than** Rs. 2 crore, therefore, the provisions of section 44AD(1) shall be applicable *vide* the provisions of 1st proviso to section 44AB.

In such situation the relevant **fields** of the **Form ITRs** shall be filled as follows:

| | | |
|--------------|---|-------|
| a1 | Whether liable to maintain accounts as per section 44AA? | N-No |
| a2 | Whether assessee is declaring income only under section 44AD / 44ADA / 44AE / 44B / 44BB / 44BBA? | Y-Yes |
| a2i | If No, whether during the year Total sales / turnover / gross receipts of business exceeds Rs. 1 crore but does not exceed Rs. 5 crores? | |
| a2ii | If Yes is selected at a2i, whether aggregate of all amounts received including amount received for sales, turnover or gross receipts or on capital account such as capital contribution, loans etc. during the previous year, in cash, does not exceed five per cent of the said amount? | |
| a2iii | If Yes is selected at a2i, whether aggregate of all payments made including amount incurred for expenditure or on capital account such as asset acquisition, repayment of loans etc. during the previous year, in cash, does not exceed five per cent of the said payment? | |
| B | Whether liable for audit under section 44AB? | N-No |
| C | If liable for audit u/s 44AB, whether the accounts have been audited by an accountant? If yes, furnish the following information below | |

74. It means that the benefit of the proviso to section 44AB(a) shall be available to those assesses whose total sales, turnover or gross receipts in business is **exceeds Rs. 1 crore but does not exceed Rs. 5 crore**, **and** he fulfils the conditions of clause (a) **and** clause (b) of the *proviso*.
75. However, in case the total sales, turnover or gross receipts in business is **exceeds Rs. 1 crore but does not exceed Rs. 2 crore**, the assessee shall have option either to avail the benefit of section 44AD, **or** avail the benefit of *proviso* to section 44AB(a), provided that he fulfils the conditions of clause (a) and clause (b) of the *proviso*.

76. Finally, in case the total sales, turnover or gross receipts in business is **does not exceed or exceeds Rs. 1 crore**, the benefit of **proviso** to section 44AB(a) shall not be available. In such case either such assessee shall have to declare profit from such business equal to or more than 8% or 6%, as the case may be, **or** maintain books of accounts and get the same audited u/s 44AD(5) r.w.s. 44AB(e).

All receipts & All payments

77. In proviso to clause (a) of Section 44AB following clause has been inserted w.e.f. 1.4.2020:

(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,

78. Further field “**a2ii**” in **ITRs Forms** provides as follows:

whether **aggregate of all amounts received including amount received**

- for sales, turnover or gross receipts **or**
- on capital account such as -
 - capital contribution,
 - loans
 - *etc.*

during the previous year, in cash, does not exceed five per cent of the said amount?

79. Further field “**a2iii**” in **ITRs Forms** provides as follows:

whether **aggregate of all payments made including –**

- amount incurred for expenditure **or**
- on capital account such as –
 - asset acquisition,
 - repayment of loans
 - *etc.*

during the previous year, in cash, does not exceed five per cent of the said payment?

Thresholds

80. If total sales, turnover or gross receipts of any person in a previous year in business is Rs. 1 crore **or less than** 1 crore, *i.e.* it **does not exceed or exceeds** Rs. 1 crore, he shall **not** be required to get his accounts audited u/s 44AB(a) of the Act.

81. However, if total sales, turnover or gross receipts of any person in a previous year in business **exceed or exceeds** Rs. 1 crore, he shall be required to get his accounts audited u/s 44AB(a) of the Act.
82. However, if total turnover or gross receipts of any person in any previous year on account of business **exceed or exceeds** Rs. 1 crore **but does not exceed** Rs. 2 crore, **and** he **declares** income u/s 44AD(1) **or** its **proviso**, as the case may be, he shall **not** be required to get his accounts audited u/s 44AB(a) of the Act as per the provisions of first proviso to section 44AB.
83. It means that if total turnover or gross receipts of any person in any previous year on account of business is **up to 2 crore**, **and** he **declares** income u/s 44AD(1) **or** its proviso, as the case may be, he **shall not be required** to get his accounts audited u/s 44AB.
84. However, if total turnover or gross receipts of any person in any previous year on account of business **exceed or exceeds** Rs. 1 crore **but does not exceed** Rs. 2 crore, **and** he **does not declare** income u/s 44AD(1) **or** its **proviso**, as the case may be, he **shall be required** to get his accounts audited u/s 44AB(e) of the Act by virtue of provisions of section 44AD(5).
85. It means that if total turnover or gross receipts of any person in any previous year on account of business is **up to** Rs. 2 crore, **and** he **does not declare** income u/s 44AD(1) **or** its proviso, as the case may be, he **shall be required** to get his accounts audited u/s 44AB(e) of the Act by virtue of provisions of section 44AD(5).
86. However, if total sales, turnover or gross receipts of any person in a previous year in business **exceed or exceeds** Rs. 1 crore **but does not exceed** Rs. 5 crore, **and** he qualifies **both** the following conditions as provided in clause (a) **and** clause (b) of proviso to clause (a) of section 44AB,
- (a) aggregate of **all amounts received including** amount received for sales, turnover or gross receipts during the previous year, **in cash, does not** exceed 5% 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 5% of the said payment
- he shall **not** be required to get his accounts audited u/s 44AB(a) of the Act.
87. The above relaxation is provided for those assesses whose total sales, turnover or gross receipts in a previous year in business **exceed or exceeds** Rs. 1 crore but is **up to** Rs. 5 crore.
88. It means that where total sales, turnover or gross receipts in a previous year in business is in excess of Rs. 1 crore and equal to or less than Rs. 5 crore, **and** his all receipts are equal to 95% or more by otherwise than in cash **and** payments are equal to 95% or more otherwise than in cash, such person shall not be required to get his accounts audited u/s 44AB(a).

89. This is clear from the requirement of field “a2i”, which is as follows:

Whether during the year total sales / turnover / gross receipts of business *exceeds* Rs. 1 crore *but does not exceed* Rs. 5 crores?

90. This is also clear from the Memorandum to proposals of Budget, 2020 as follows:

Rationalisation of provisions relating to tax audit in certain cases.

Under section 44AB of the Act, every person carrying on business is required to get his accounts audited, if his total sales, turnover or gross receipts, *in business* exceed or exceeds one crore rupees in any previous year.

In case of a person carrying on profession he is required to get his accounts audited, if his gross receipt *in profession* exceeds, fifty lakh rupees in any previous year.

In order to *reduce compliance burden on small and medium enterprises*, it is proposed to increase the threshold limit *for* a person carrying on *business* from one crore rupees to five crore rupees in cases where,-

- (i) aggregate of all receipts in cash during the previous year does not exceed five per cent of such receipt; **and**
- (ii) aggregate of all payments in cash during the previous year does not exceed five per cent of such payment.

Benefits of section 44AD

91. Benefits of section 44AD are **still available** for assessees having total turnover or gross receipts on account of business not more than Rs. 2 crore vide the provisions if 1st proviso to section 44AB.
92. In case the total turnover or gross receipts on account of business is *does not exceed or exceeds Rs. 1 crore*, the benefit of *proviso* to section 44AB(a) shall **not** be available. In such case such assessee shall have **no** other *option*, **but either** to declare profit from such business equal to or more than 8% or 6%, as the case may be and avail the benefits of section 44AD *or* to maintain books of accounts and get the same audited u/s 44AD(5) r.w.s. 44AB(e).
93. In case the total turnover or gross receipts on account of business is *exceeds Rs. 1 crore but does not exceed Rs. 2 crore*, the assessee shall have *option* either to avail the benefit of section 44AD, **or** avail the benefit of *proviso* to section 44AB(a), provided that he fulfils the conditions of clause (a) and clause (b) of the *proviso*.

Disclaimer

This document has been prepared for academic use only to share with fellow professionals and all concerned the scope of amendment to section 44AB(a) of the Income Tax act, 1961 w.e.f. 1.4.2020 (Assessment year 2020-21) with special reference to section 44AD, 44ADA and 44AE of presumptive taxation and relevant fields of ITR Forms pertaining to assessment year 2020-21. Though every effort has been made to avoid errors or omissions in this document yet any error or omission may creep in. Therefore, it is notified that I shall not be responsible for any damage or loss to any one, of any kind, in any manner there from. I shall also not be liable or responsible for any loss or damage to any one in any matter due to difference of opinion or interpretation in respect of the text. On the contrary it is suggested that to avoid any doubt the user should cross check the correct law and the contents with the said gazetted and notified materials.



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