

# Tax Audit

## Practical Aspects



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Shared at

Webinar, Amrtisar Branch of NIRC of ICAI

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# WHAT IS TAX AUDIT??

- + S. 10 (23C) (iv), (v), (vi) or (via),
- + Section 10A,
- + Section 12A(1)(b),
- + Section 44AB
- + Section 80-IA,
- + Section 80-IB,
- + Section 80-IC,
- + Section 80-ID,
- + Section 80JJAA,
- + Section 80LA,
- + Section 92E
- + Section 115JB
- + Section 115JC



# LEGISLATION FOR AY 2020-21

## S. 44AB

- Business – exceeds Rs. 1 Crore / 5 Crores
- Profession – exceeds Rs. 50 L
- Business u/s 44AE /44BB /44BBB; income < deemed profits;
- Profession u/s 44ADA; deemed profit < 50% & TI >ANCT
- Business u/s 44AD (4) & TI >ANCT

## Rule 6G

- Prescribing the Forms for Report u/s 44AB

## Form 3CA

- Report in case of a person who is required to get his A/cs audited under any law

## Form 3CB

- Report in any other case

## Form 3CD

- Particulars as required in Form 3CA or Form 3CB

## S. 271B

- Penalty  $\frac{1}{2}\%$  maximum Rs. 1.50 L

# APPLICABILITY OF 44AD(44ADA) / 44AB

Mr. A started Mfg – 1<sup>st</sup> Yr - Turnover (all cash)  
– 150L; NP – 8 L; TI - 8.50 L

- AD - No
- AB - Yes

Ms. B - Trading - Turnover (all cash) – 90L; NP -  
10L; Doctor– Fee – 45 L; NP- 25 L; TI -32L

- AD – No
- ADA - Yes
- AB - No

Ms. C – Trading Turnover (all cash)– 80L  
NP – 4 L; TI- 3 L

- AD – No
- AB - No

Mr. D - Trading; Turnover (all cash) - 95L;  
Commission – 6 L; NP- 15L; TI - 14L

- AD - No
- AB - Yes

# 44AB

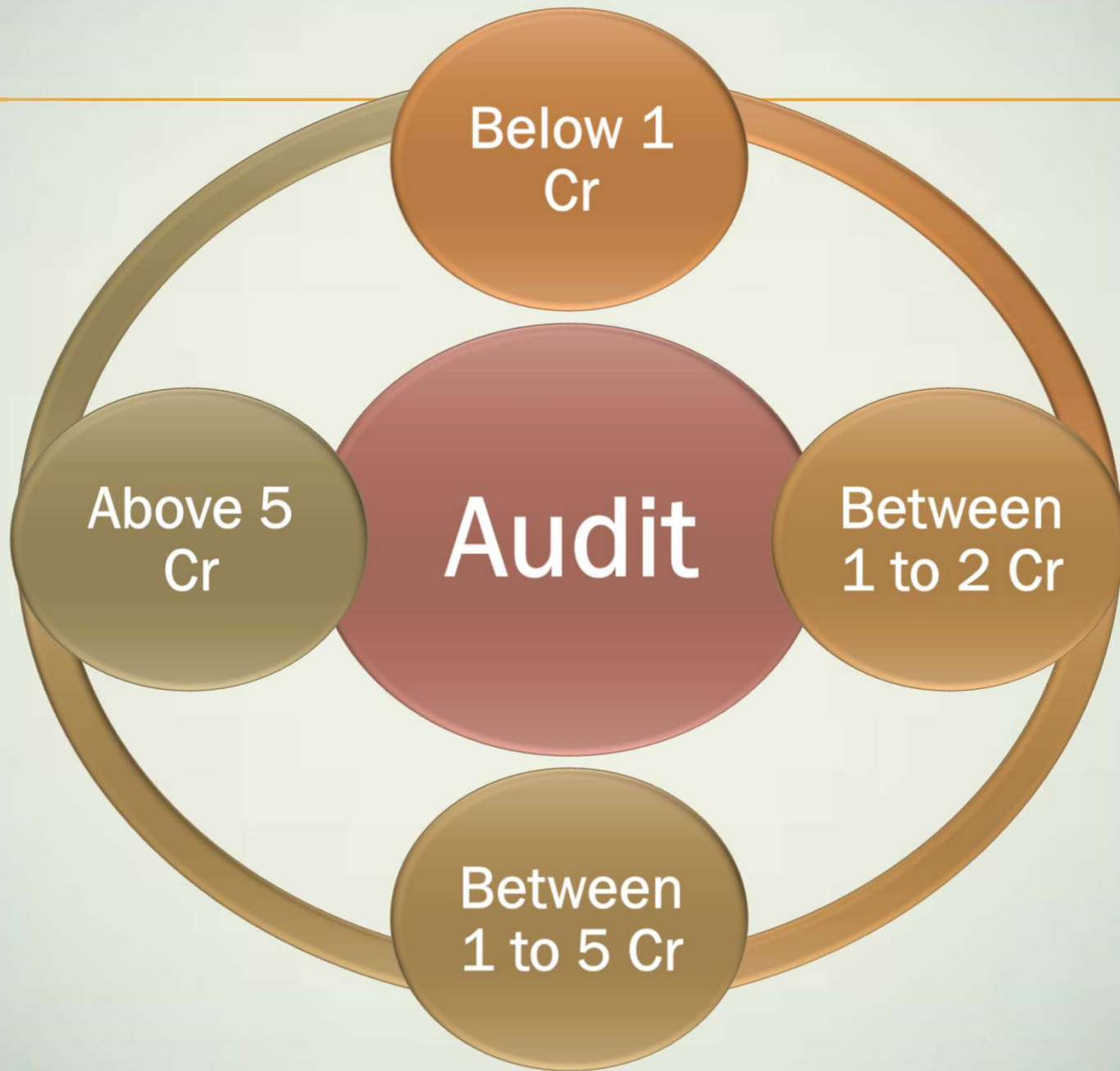
- × **Limit 1 Cr to 5 Cr !!**
- × **Limit of 5 Cr Only if:**
  - + **Aggregate of all amounts received in cash do not exceed 5% of said amt.**
  - + **AND**
  - + **Aggregate of all Payments made in cash do not exceed 5% of said payment**

# 44AB ????

- × **Payments all by banking channels**
- × **Receipts:**
  - + **4 Crs sales out of which 10 Lacs in Cash**
  - + **Partner introduces capital - 15 Lacs in cash**
  - + **Loans - 15 Lacs by NEFT**
  - + **Is tax audit u/s 44AB required?**
    - + **Yes as total receipts - 425 L ; cash - 25L**
  - + **Is it mandatory or optional??**
    - + **Mandatory**

# 44AB / 44AD

- × **ABC & Co. formed in AY 2019-20**
  - + **Turnover Rs. 1.50 Crs**
  - + **Audit u/s 44AB(a)**
  
- × **AY 2020-21**
  - + **Turnover Rs. 1.75 Crs**
  - + **If cash receipt / payment less than 5% would there be audit u/s 44AB?**
  - + **Can it avail of 44AD?**





# RELATED CHANGE IN ITR

## UNDER AUDIT INFORMATION REGARDING THE DECLARATION OF INCOME: ITR 3,5 & 6

(a1)	Are you liable to maintain accounts as per section 44AA? (Tick) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
(a2)	Whether assessee is declaring income only under section 44AE/44B/44BB/44AD/44ADA/44BBA/44BBB <input type="checkbox"/> Yes <input type="checkbox"/> No
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? <input type="checkbox"/> Yes <input type="checkbox"/> 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 like capital contributions, loans etc. during the previous year, in cash, does not exceed five per cent of said amount? <input type="checkbox"/> Yes <input type="checkbox"/> 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., in cash, during the previous year does not exceed five per cent of the said payment? <input type="checkbox"/> Yes <input type="checkbox"/> No

**TAX**  
  
**AUDIT**

Qualified  
or  
Disqualified

# WHO CAN CONDUCT AUDIT

- **W.e.f. 1<sup>st</sup> June 2015**
- **Accountant as defined in Explanation below S. 288 (2)**
- **A Chartered Accountant as defined in section 2 (1) (b) of the Chartered Accountants Act, 1949 who holds a valid certificate of practice u/s 6 (1) of that Act**
- **CA in practice (can represent)**

# DISQUALIFICATION - COMPANIES



# DISQUALIFICATION – OTHERS

- **Assessee himself**
- **In case of a firm - any partner of the firm**
- **In case of AOP - member of the association**
- **In case of HUF - member of the family**
- **Person referred to in section 13(3)(a),(b),(c), (cc);**
- **Relative of any of above persons**
- **Other than above, person who is competent to verify return u/s 139/140;**
- **Officer or employee of assessee;**

# RELATIVE – INCOME TAX AUDITOR

- Spouse of the individual;
- Brother or sister of the individual;
- Brother or sister of the spouse of the individual;
- Any lineal ascendant or descendant of the individual;
- Any lineal ascendant or descendant of the spouse of the individual;
- Spouse of a person referred above
- Any lineal descendant of a brother or sister of either the individual or of spouse of individual

# DISQUALIFICATIONS - OTHERS

- Who is a partner, or who is in employment, of an officer or employee of assessee;
- Who has been convicted by a court of an offence involving fraud and a period of 10 years has not elapsed from the date of such conviction
- An individual who, or his relative or partner
  - Is holding any security of or interest in assessee –  
Relative face value - Rs. 1 L
  - Is indebted to the assessee. Relative – Rs. 1 L
  - Has given a guarantee / provided security . Relative –  
1 L

# DISQUALIFICATIONS – TAX AUDITOR

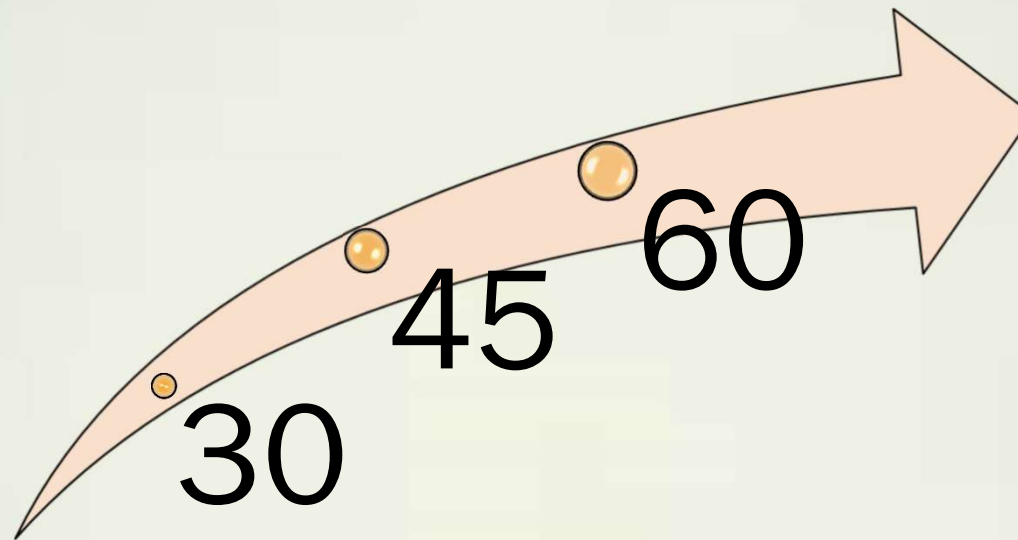
- A person or a firm who, whether directly or indirectly, has business relationship with assessee i.e., any transaction entered into for commercial purpose except:
  - In nature of professional services permitted
  - In the **ordinary course of business of co.** at ALP like
    - sale of products or
    - services
  - To **auditor, as customer, in the ordinary course of business**, by companies engaged in business of telecommunications, airlines, hospitals, hotels & such other similar businesses





- **Can a CA in practice who is giving accounting services to a subsidiary, conduct tax audit of its holding company?**
- **Can an internal auditor of a company issue Form 15CB certificate for that company?**
- **Can a CA in practice who is giving accounting services to holding company issue certificate for MAT in Form 29B to its subsidiary company?**

# TAR CEILING



- ✘ ICAI clarified in 2011 that audit prescribed under any statute (like DVAT, 2004), not covered
- ✘ 44AD / 44ADA / 44AE audit not covered in limit

TA u/s 44AB

```
graph TD; A[TA u/s 44AB] --> B[Form 3CB]; A --> C[Form 3CA]; B --> D[Any clause from (a) to (e)]; C --> E[3rd Proviso];
```

Form 3CB

Any clause from  
(a) to (e)

Form 3CA

3<sup>rd</sup> Proviso

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