

# Applicability of Clause 44 of Form 3CD Tax Audit Report for FY 2021-22 (AY 2022-23)

**T**ax Audit Report in *Form 3CD* contains 'Clause 44' which deals with reporting requirements related to GST expenditure and is a significant cause of concern among the tax auditors and the assessee. The confusion seen is related to the *applicability of clause 44 of Form 3CD for the assessment year 2022-23 or FY 2021-22.*

## *Applicability of Tax Audit Report*

Under the Income Tax Act, 1961, every person carrying on business is required to get his accounts audited, if his total sales, turnover or gross receipts, in business exceed ₹ 1 crore in any previous year. The Tax Audit turnover threshold limit has been increased to ₹ 5 crores and then to ₹ 10 crore for business under section 44AB where at least 95 per cent turnover is made on digital transactions.

In the case of a person carrying on the profession, he is required to get his accounts audited, if his gross receipt in profession exceeds, ₹ 50 lakh in the previous year.

## *BDT Notification on Clause 44 of Form 3CD*

Form 3CD of Tax Audit Report (TAR) was amended in July 2018 by Notification No. 33/2018 dated 20.07.2018 inter alia to incorporate the following two clauses - *Clause 30C on reporting of GAAR transactions and Clause 44 on reporting of GST transactions.*

30C. (a) Whether the assessee has entered into an impermissible avoidance arrangement, as referred to in section 96, during the previous year? (Yes/No.)

(b) If yes, please specify:—  
(i) Nature of impermissible avoidance arrangement:

(ii) Amount (in ₹) of tax benefit in the previous year arising, in aggregate, to all the parties to the arrangement:

44. Break-up of total expenditure of entities registered or not registered under the GST:



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SI No	Total amount of Expenditure incurred during the year	Expenditure in respect of entities registered under GST				Expenditure relating to entities not registered under GST
		Relating to goods or services exempt from GST	Relating to entities falling under composition scheme	Relating to other registered entities	Total payment to registered entities	
(1)	(2)	(3)	(4)	(5)	(6)	(7)

**Study of Clause 44 of Form 3CD**

Clause 44 of Form 3CD requires reporting of the total amount of expenditure incurred during the previous year.

The heading of clause 44 requires reporting of the break-up of the total expenditure incurred. Hence, head-wise reporting of total expenditure is required to be reported in Form 3CD under this clause.

Further, this clause is required to be reported by all the reporting assesseees whether the assessee is registered under GST or not. Thus, even if a person is not registered under GST, a break-up of total expenditure in the prescribed table is required to be furnished.

Analysis of column (1) of the table, which requires mention of the serial number, suggests that expenditures are required to be reported in a head-wise manner. Otherwise, if it is interpreted to be a consolidated figure, there is no requirement to mention the serial number in the table. The Form 3CD utility provides for adding rows more than one. However, the possibility of a contrary alternative view cannot be ruled out.

Furthermore, reporting under this clause is required for all the expenditure-revenue expenditure as well as capital expenditure.

These amount of expenditures is further required to be segregated into different components as specified in column (3) to column (7) of the table of clause 44.

Columns (3) to (6) require to report how much of the total expenditure as reported in column (2) is **attributed to GST-registered** entities and column (7) requires to report how much of the total expenditure as reported in column (2) is attributed towards **entities unregistered with GST**.

Column (3) of the table under clause 44 of Form 3CD requires to report how much of total expenditure as reported in column (2) is related to goods or services exempt from GST. In other words, this column requires to disclose expenditure exempt under GST.

Column (4) of the table under clause 44 of Form 3CD requires to report how much of total expenditure as reported in column (2) is related to entities falling under the composition scheme of GST. In other words, this column requires to disclose expenditure incurred with GST composition dealers.

Column (5) of the table under clause 44 of Form 3CD requires to report how much of total expenditure as reported in column (2) is related to entities registered with GST. In other words, this column requires to disclose expenditure incurred with GST registered dealers.

Column (6) of the table under clause 44 of Form 3CD requires to report how much payment was made to GST-registered entities in the previous year.

Column (7) of the table under clause 44 of Form 3CD requires to report how much of total expenditure as



reported in column (2) is related to entities not registered with GST. In other words, this column requires to disclose expenditures incurred with unregistered persons.

***Clause 44 of Form 3CD: Applicability for AY 2022-23 (FY 2021-22)***

Though the requirement was also deferred and the same is continued till 31.03.2022. Hence, ***the abeyance of applicability of clause 44 was available till 31.03.2022*** for all the tax audit reports required to be furnished till that date.

In the absence of any further abeyance order, ***tax auditors will be required to furnish details called***

***for under clause 44 of Form 3CD of the Tax Audit Report if furnished on or after 01.04.2022.***

As per rule, tax audit reports for the FY 2021-22 or AY 2022-23 needs to be furnished on or after 01.04.2022.

Based on the above it may be concluded that ***Clause 44 of Form 3CD required to be furnished with Tax audit Report for FY 2021-22 (or AY 2022-23) shall be applicable*** and accordingly the details of total expenditure for GST registered and GST unregistered persons as required in that clause shall be required to be furnished by the auditors for FY 2021-22 (AY 2022-23).

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