

# DESK WORK – ITR 4

## Presumptive Taxation

By

CMA S VENKANNA

COST and Management ACCOUNTANT

# Meaning

- As per the Income-tax Act, a person engaged in business or profession is required to maintain regular books of account and further he has to get his accounts audited.
  - To give relief to small taxpayers from this tedious work, the Income-tax Act has framed the presumptive taxation scheme under sections 44AD, 44ADA and 44AE.
  - A person adopting the presumptive taxation scheme can declare income at a prescribed rate and, in turn,
  - Is relieved from tedious job of maintenance of books of account and also from getting the accounts audited.
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- Scheme allows to calculate **tax** on an estimated **income** or profit.
  - The scheme can be used by
    - Businesses having a total turnover of less than Rs.2 crores
    - Professionals with gross receipts of less than Rs50 lakh in a financial year.

# Provisions applicable to Residents

- 1) Section 44AD Business
- 2) Section 44ADA Professionals
- 3) Section 44AE Owning Transport Vehicles
  - - Plying, Hiring, Leasing of Goods Carriages

# Applicable to Non Residents

- Section 44B Shipping Business
- Section 44BB Business of Exploration of Mineral Oils
- Section 44BBA Operation of Airlines

# Section 44AD

- Eligible Assesseees
  - Individuals
  - HUF
  - Partnership Firm (Other than LLP)
- Business
  - Retail, Wholesale, Civil Construction
- Turnover Limit during the previous year
  - Rs.2.00 Crores
- Presumptive Income
  - 8% of the Gross Receipts or 6% - If all receipts through digital mode (non cash)
- Can Declare Voluntarily higher income

# Other Provisions of 44AD

- No deductions allowed under Sec.30 to 37
- Provisions of Sec.40, 40A, 43B are not applicable
  - (Disallowances)
- Exempted from maintaining the books of accounts as per Sec.44AA Read with Rule 6F.
- Simplified Return of Income – ITR4
- Advance Tax Provisions are not applicable. However,
  - Any person opting for the presumptive taxation scheme under section 44AD is liable to pay whole amount of advance tax on or before 15<sup>th</sup> March of the previous year. If he fails to pay the advance tax by 15<sup>th</sup> March of previous year, he shall be liable to pay interest as per section 234C.
- The AO does not power to assess higher income
- The following businesses are excluded from presumptive taxation:
  - a. Life insurance agents.
  - b. Commission of any kind.

# Declaration of Lower Income

- Compulsory Maintenance of Books of Accounts
- Compulsory Tax Audit under Sec.44AB
- The assessee is eligible to claim deductions under Chapter VIA

Note:

If a person opts for presumptive taxation scheme then he is also required to follow the same scheme for next 5 years. If he failed to do so, then presumptive taxation scheme will not be available for him for next 5 years.

# Section 44ADA - Professionals

- Applicable to
  - Engineering
  - Legal
  - Architectural profession
  - Accountant
  - Medical
  - Technical consultant
  - Interior decoration
  - Any other profession as notified by CBDT



# Conditions

- Gross Receipts – should be less than Rs.50 lakhs during the previous year.
- Income:
- In case of a person adopting the provisions of section 44ADA, income will be computed on presumptive basis, i.e. @ 50% of the total gross receipts of the profession.
- However such person can declare income higher than 50%.
- In other words, in case of a person adopting the provisions of section 44ADA, income will not be computed in normal manner but will be computed @50% of the gross receipts.

# Other Provisions

- No need to maintain books of accounts
- Advance tax
  - But Any person opting for the presumptive taxation scheme under section 44ADA is liable to pay whole amount of advance tax on or before 15<sup>th</sup> March of the previous year. If he fails to pay the advance tax by 15<sup>th</sup> March of previous year, he shall be liable to pay interest as per section 234C.
  - No need to pay quarterly advance tax.
- Declaration of Lower Income
  - Compulsory Maintenance of Books of Accounts (Sec.44AA)
  - Tax Audit u/s.44AB

# Section – 44AE

- Can be adopted by a person who is engaged in the business of plying, hiring or leasing of goods carriages.
- The provisions of section 44AE are applicable to every person (i.e., an individual, HUF, firm, company, etc.).
- Applicable to Resident or Non Residents
- Does not more than 10 goods vehicles during the previous year.
- Income:
  - Heavy Goods Vehicle
    - (Heavy Goods Vehicle”means any goods carriage having gross vehicle weight exceeding 12,000 kilograms)
    - **Rs.1000 per ton of gross vehicle weight per month**
  - Other than Heavy Goods Vehicle (Gross Weight Less than 12 MT)
    - **Rs.7500 per month per vehicle**
  - Higher income can be declared voluntarily

## 44AE – Other provisions

- No books as per section 44AA
- No other deductions allowed in computing the income
- However : Advance Tax is Payable – No relaxation
- A person can declare his income at lower rate (i.e., at less than Rs. 1,000 per ton or Rs. 7,500 per goods vehicle per month). However, if he does so, then he is required to maintain the books of account as per the provisions of section 44AA and has to get his accounts audited under section 44AB.

# Example – 44AE

- Mr.X Owns 9 vehicles (other than heavy goods vehicle)
- Income
  - Rs.7,500 per month per vehicle
  - 9 vehicles x Rs.7,500 = Rs.67,500
  - No.of months = 12
  - Total Income = 12 x 67,500 = Rs.8,10,000
- Declare lower income:
  - Yes: Applicability of Sec.44AA and 44AB

# Depreciation u/s.44AE

- **As mentioned above, no deduction for depreciation, in any case, will be allowed from the estimated net income under section 44AE.**
- **However, depreciation can be calculated and deducted from the value of the asset to determine the WDV of the block of an asset as per the provisions of Income Tax Act under section 32.**

# Higher Income

- **If the actual income of the assessee is higher than the income calculated under the Presumptive Scheme, then the assessee can declare such higher income at his own discretion.**
- **No questions from the department.**

# Can Declare lower income

- Provisions applicable
  - Books of Accounts (Sec.44AA)
  - Tax Audit Sec.44AB
  - Assessment under section 143(3)



# Firm

- One of the condition for applicability of Section 44ADA is that the 'total gross receipts' of the assessee engaged in the profession should not exceed INR 50 lakhs.
- Whereas Section 44AD provides 'total turnover or gross receipts'. it would exclude partners share of profit which is exempt under section 10(2A).
- share of partners profit which is exempt under section 10(2A) would not be considered for the purposes of the gross receipts.

# Example

Rakesh is a practicing doctor and has an annual income of Rs 30 Lakhs in financial year 2021-22. The actual expenses incurred by Rakesh for running his practice amount to Rs 3,00,000. The tax liability for Rakesh for FY 2021-22 is as follows:

Particulars	Tax liability with Presumptive taxation	Tax liability without Presumptive taxation
Income	Rs. 30,00,000	Rs. 30,00,000
Expenses	Rs. 15,00,000 (50% of income is eligible for deduction)	Rs. 3,00,000
Taxable income	Rs. 15,00,000	Rs. 27,00,000
Tax liability	Rs. 2,62,500 (excluding cess)	Rs. 6,22,500 (excluding cess)

<p style="text-align: center;"><b>X is a Consultant</b></p> <p style="text-align: center;"><b>Details of the income for the year 2021-22 is given below</b></p>	
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<b>Gross Receipts for the assignments</b>	<b>45,00,000</b>
<b>Less: Expenses Incurred during the year</b>	<b>14,00,000</b>
<b>Net Income Taxable</b>	<b>31,00,000</b>

<b>Coputation</b>	<b>Normal Provisions</b>	<b>Presumptive</b>
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<b>Taxable Income</b>	<b>31,00,000</b>	<b>22,50,000</b>
<b>Tax Liability</b>		
<b>Upto Rs.2,50,000</b>	<b>Nil</b>	<b>Nil</b>
<b>From Rs.2,50,000 to Rs.5,00,000</b>	<b>12,500</b>	<b>12,500</b>
<b>From Rs.5,00,000 to Rs.10,00,000</b>	<b>1,00,000</b>	<b>1,00,000</b>
<b>From Rs.10,00,000 and above</b>	<b>6,30,000</b>	<b>3,75,000</b>
<b>Total Tax Liability</b>	<b>7,42,500</b>	<b>4,87,500</b>
<b>Add: Cess</b>	<b>29,700</b>	<b>19,500</b>
<b>Total Tax Liability</b>	<b>7,72,200</b>	<b>5,07,000</b>
<b>Tax Sving due to presumptive Taxation</b>		<b>2,65,200</b>

# Benefits

- **Three Benefits to File Returns in ITR4**
- **Easy to File:** The tax form is much shorter and simpler as compared to a complex 30 pages ITR 4 form for filing.
- **Save Money:** Professionals can now [file tax returns on their own](#) instead of paying a tax consultant.
- **Save Tax:** Do not have much expenses to declare. By declaring 50% of income as profit and balance as expense, a lot of tax saving can be done.

## Sec.44AD

- Once the Assessee has offered income under this scheme and if in any subsequent year if lower income is offered he shall not be eligible to claim the benefit of this section for next five years. The rationale behind this provision is not understood. The provisions of this section are not applicable to Professionals, and persons earning income from Agency Business/Commission & Brokerage.

# Option to file ITR4 – Presumptive Tax

- If a person opts for presumptive taxation scheme then he is also required to follow the same scheme for next 5 years.
- If he failed to do so, then presumptive taxation scheme will not be available for him for next 5 years.
- [For example, an assessee claims to be taxed on presumptive basis under Section 44AD for 2021-22. However, for AY 2022-23, if he did not opt for presumptive taxation Scheme. In this case, he will not be eligible to claim benefit of presumptive taxation scheme for next five AYs, i.e. from AY 2023-24 to 2027-28.]

# Books

- Further, he is required to keep and maintain books of account and he is also liable for tax audit as per section 44AB from the AY in which he opts out from the presumptive taxation scheme. [If his total income exceeds maximum amount not chargeable to tax]

# Case Study – Sec.44ADA

- A Doctor receiving the income by the way of the consultancy fees and also engaged in selling the medicines within his premises to the extent of the 20 Lakhs and 1.5 Crore?



# Solution

- In such cases what has been generally seen that the entities opt for the section 44AD and section 44ADA while filing the income tax returns and therefore ends up in receiving the scrutiny notices from the income tax department.
- Clause (i) of the sub section 6 of the section 44AD clearly provides that the assessee carrying on the profession as specified in the section 44AA will not be entitled to the benefit of this section, however interestingly no such requirement has been laid down in the section 44ADA of the act and therefore the assessee is entitled to the benefit of the section 44ADA in respect of the consultancy fees,
- however in case of the pharm sales the assessee has to maintain the separate books of the accounts and get his accounts audited as per the section 44AB(1) of the act.

Thank You