

Books of Accounts – Income Tax

By

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Provisions of Law

- Section 44AA of Income Tax Act 1961 - Applicability
- Rule 6F – Books of Accounts – List
- Tax Audit Under Sec.44AB

Applicability

- Individual or HUF
- Any person carrying on Business or Profession
- Category
 - Category A
 - Maintain such books of accounts to enable the Assessing Officer to Compute the Income as per provisions of Income Tax Act 1961
 - Category B
 - Maintenance of Books of Accounts as per Rule 6F

Category A – Specified Profession

- Notified Person
 - Legal
 - Medical
 - Engineering
 - Architectural
 - Interior decoration
 - Accountancy
 - Technical consultancy
 - Film artists(anyone engaged as a professional in the film industry)
 - *Includes*
 - *Film Artist includes a producer, editor, actor, music director, dance director, art director, cameraman, singer, lyricist, story writer, screenplay, costume designer, or dialogue writer*
- Authorized Representative
- Company Secretary

Authorized Representative

- Any person who represents any other person, on payment of any fee or remuneration before any Tribunal or authority constituted or appointed by or under any law for the time being in force,
- but does not include an employee of the person so represented or a person carrying on legal profession or a person carrying on the profession of accountancy

Limit – Category A

- Specified Profession
 - Gross Receipts in the Profession do not exceed Rs.1,50,000.
 - In any one or more of the Three Years immediately preceding the previous year.
 - Newly Set Up Profession
 - In the previous year is not likely to exceed the limit

Category B – Specified Profession

- Gross Receipts exceed Rs.1,50,00
 - In All the Three Years preceding the Previous Year
- Newly Set Up Profession
 - Gross Receipt Exceed Rs.1,50,000 in the Previous Year likely to exceed the limit

Category C – Non Specified Profession

- Includes also person carrying on Business.
- If the Income from profession or business does not exceed Rs.1,20,000 and the
- Total Sales Turnover or Gross Receipts does not exceed Rs.10,00,000 in all the Three Years Preceding Previous Years.
- Newly Set Up Business or Profession
 - Income or Sales Turnover or Gross Receipts
 - Does not exceed in the previous year.
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Category D – Non Specified Profession

- Carrying on Any Non Specified Profession
- Carrying on Any Business
 - Income Exceeds Rs.1,20,000
 - Total Sales Turnover or Gross Receipts Exceeds Rs.10,00,000

Category A -Requirement of Books

- Category A
- Maintain '**SUCH BOOKS OF ACCOUNTS**'
- And Other Documents
- To enable the AO to compute the income under the Act.
 - CBDT has not prescribed books accounts which should be maintained

Books of Accounts

- Category B
 - Maintain Such Books of Accounts as per Rule 6F
- Category C
 - Persons under this category
 - Not required to maintain any books of accounts
- Category D
 - Maintain “Such Books” as may enable the AO to compute the income
 - But Not prescribed specified books of accounts to be maintained.

Others - Compulsory

- Assessee covered under Presumptive Taxation u/s 44AE/44BB/44BBB and claimed his income to be lower under normal provision of income tax act than the income deemed under Presumptive Tax;
- Or
- Assessee covered under Presumptive Taxation u/s 44AD/44ADA and claimed his income to be lower under normal provision of income tax act than the income deemed under Presumptive Tax provided income exceeds the maximum amount which is not chargeable to income-tax in any previous year.

Compulsory Books

- All Tax Payers (Except Category C)
- Required to Maintain Books of Accounts Prescribed
- To Compute taxable income by the AO
- But Prescribed Books are more specifically applicable to Category B.

Rule 6F – Prescribed Books of Accounts

- (a) Cash Book:
 - Record of all cash receipts and payments
 - Maintained on day to day basis
 - Cash Balance on each day or specified period (but not more than a Month)
- (b) Journal:
 - If the Accounts are maintained on Mercantile System of Accounting.
- (c) Ledger:

Books

- Copies:
 - Copies of Bills Issued (exceeding Rs.25) (Serially Numbered)
- Original Bills:
 - For the expenditure incurred (Exceeding Rs.50)
 - Payment Vouchers
- In relation to Medical Profession:
 - Daily Case Register (Form No.3C) : Patient's particulars
 - Inventory of medicines stock

Place of Books

- At the place where profession or business is carried on.
- If more than one place: Principal Place of Profession
- Separate Books at each place may also be maintained.
- Books and Records should be kept upto 6 years from the end of the relevant assessment year.
- Assessment u/s.147 (income escaping assessment), should be maintained at the time of re-assessment.
 - All the books of account and other documents which were kept and maintained at the time of reopening of the assessment shall continue to be so kept and maintained till the assessment so reopened has been completed.]

Requirement of Audit – Sec.44AB vis-à-vis Books of Accounts

- Business:
 - If the total sales, turnover, or gross receipts for the previous year exceed Rs.1 Crores.
- Turnover Limit Rs.10 Crores (From AY 2021-22)
 - 1. Aggregate of all cash receipts during the previous year does not exceed 5% of such receipt.
 - 2. Aggregate of all payments in cash during the previous year does not exceed 5% of such payment.
- Profession:
 - Gross Receipts for the previous year exceeds Rs.50 lakhs.

Audit and Books – Presumptive Income

- Person covered
 - Under Sec.44AE – Plying, leasing, hiring of trucks
 - Under Sec. 44BB – Non Resident (Indian or Foreigner Providing service relating to exploration of mineral oils)
 - Under Sec. 44BBB – Foreign Companies in the business of civil construction
 - If such person claims that the profits and gains are lower than the presumption income.

Audit and Books

- Sec.44AD
 - If any person claims lower income than the presumptive income
- Sec.44ADA
 - If such person claims lower income than the income prescribed

Presumptive Income

- Section 44AA deals with provisions relating to maintenance of books of account by a person engaged in business/profession.
- Thus, a person engaged in business/profession has to maintain books of account of his business/profession according to the provisions of section 44AA.

No Books

- In case of a person engaged in a business and opting for the presumptive taxation scheme of section 44AD, the provisions of section 44AA relating to maintenance of books of account will not apply.
- In other words, if a person adopts the provisions of section 44AD and declares income @ 6% or 8% (as the case may be) of the turnover, then he is not required to maintain the books of account as provided for under section 44AA in respect of business covered under the presumptive taxation scheme of section 44AD.

Due date

- As per Sec.139(1)
 - (Normally 31st October of the relevant assessment year)
- Audit Report:

Tax Payer	Audit Form No.	Statement
When regular Audit under other law is applicable	Form No.3CA	Form No.3CD
When regular is not required under other law	Form No.3CB	Form No.3CD

Issues

- If accounts are required regular audit, obtain audit report before the audit under sec.44AB
- Audit report should be submitted electronically
- If income is exempt under secs 10 to 13A, Audit u/s.44AB is not required.

Limits

- Limits for Individual & HUF for maintenance of accounts in case of business or profession
 - a) In case of Business : If total Income is more than Rs. 2,50,000.
 - b) In case of Profession : If turnover / Gross Receipt is more than Rs. 25,00,000.

Penalty

- As per Section 271A, if the assessee fails to maintain books of accounts as per Section 44AA then penalty of Rs. 25,000 may attract.
- In case of an international transaction, failure to maintain information and documents for transactions would lead to a penalty of 2% of the value of international transactions.
- If the taxpayer fails to get the accounting records audited or furnish audit report as per the requirements of Section 44AB, a penalty may be levied under section 271B.
- The minimum penalty that can be charged is 0.5% of the total sales, turnover or gross receipts. The maximum penalty is Rs 1,50,000.
- However, if the taxpayer has a reasonable cause for failure to get an audit done – such penalty may not be levied.

Illustration 1

- Mr. X is a "Film Artist".
- He does not maintain any books of account as per the provisions of section 44AA in respect of his profession
- As per his views the provisions of section 44AA relating to maintenance of books of account do not apply. Is it valid?
- **Solution**
- The provisions relating to maintenance of books of account can be classified as follows:
 - ▪ Provisions relating to a person engaged in specified profession.
 - ▪ Provisions relating to a person engaged in non-specified profession.
 - ▪ Provisions relating to a person engaged in business.

Advice

- As per section 44AA and rule 6F, the profession of “Film Artist” is covered under “*specified profession*” and, hence, the provisions of section 44AA are applicable and, hence, Mr.X is liable to maintain books of account prescribed by rule 6F or such books of account and other documents as may enable the Assessing Officer to compute taxable income under the Income-tax Act depending upon the details of his gross receipts from such profession for the last three years immediately preceding the previous year.
- Thus, Mr. X is not correct.

Illustration 2

- Mr. CS is a Company Secretary. The details of his annual gross receipts from such profession for the past three years are as follows:
 - Financial year 2020-21: Rs. 8,80,000
 - Financial year 2019-20: Rs. 6,50,000
 - Financial year 2018-19: Rs. 5,20,000
- Advice required

Solution

- Every person carrying on specified profession, whose gross receipt from such profession exceeds Rs. 1,50,000 in all the three years immediately preceding the previous year (in case of new profession if the gross receipts of the first year are likely to exceed Rs. 1,50,000), shall maintain such books of account and other documents as are prescribed by rule 6F.
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- The profession of Company Secretary is covered under the definition of *specified professions*.
- Hence, a person engaged in the profession of company secretary has to maintain the books of account specified under rule 6F if the gross receipt from such profession exceeds Rs. 1,50,000 in all the three years immediately preceding the previous year.
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- In the given case, the gross receipts of Mr. CS of the preceding three years exceed Rs. 1,50,000 and, hence, he has to maintain books specified under rule 6F.

Illustration 3

- Suppose A is a person carrying on profession as a Script Writer for Films. His gross receipts from the profession are as below:
- Financial year 2019-20 – Rs. 2,00,000
- Financial year 2020-21 – Rs. 1,50,000
- Financial year 2021-22 – Rs. 1,15,000
- In the present case, A is a person who is carrying on profession as a film Script Writer which is a notified profession as per section 44AA. Since his gross receipts in all three years do not exceed Rs. 1,50,000 the requirements of section 44AA are not applicable to A.

Case Law – Gauhati High Court

- **Surajmal Parsuram Todi vs Commissioner Of Income-Tax on August, 1996**
- Facts of the Case
- The Income-tax Officer after completion of the assessment of the assessee initiated penalty proceedings under [Section 271B](#) of the Act for not getting the books of account audited under [Section 44AB](#) of the Act. The assessee contended that because of the nature of work it carried on the books of account could not be maintained. The admitted fact is that the assessee had not maintained the books of account for several years. Against that an appeal was preferred before the Commissioner of Income-tax (Appeals) who turned down the contentions of the assessee. Then the assessee preferred an appeal before the Income-tax Appellate Tribunal. However, the Tribunal affirmed the penalty.

Judgement

- We have gone through the provisions of [Sections 44AA](#), [44AB](#), [271A](#) and [271B](#) of the Act. Maintenance of accounts is envisaged under [Section 44AA](#) and on failure to do so the assessee shall be guilty and liable to be penalised under [Section 271A](#).
- Even after maintenance of books of account the obligation of the assessee does not come to an end.
- He is required to do something more, i.e., by getting the books of account audited by an accountant. But when a person commits an offence by not maintaining the books of account as contemplated by [Section 44AA](#) the offence is complete. After that there can be no possibility of any offence as contemplated by [Section 44AB](#) and, therefore, in our opinion, the imposition of penalty under [Section 271B](#) is erroneous.
- The Tribunal has overlooked this aspect of the matter. Of course, it is apparent from the records that the assessee failed to maintain the books of account as required under [Section 44AA](#) and for that penalty is prescribed under [Section 271A](#). It is for the Tribunal to take action in accordance with law