



The Chamber of Tax Consultants

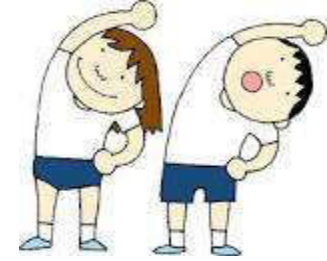
**Study Circle Meeting on
Issues and Recent Amendments in
Tax Audit Report**

CA Ketan Vajani

caketanvajani@gmail.com

29th August, 2018

Let's Warm Up



- ▶ Purpose of Tax Audit
- ▶ Scope of Tax Audit
- ▶ Relevance of Accounting and Auditing Standards and Principles of commercial accounting
 - Materiality
 - Prudence
 - Substance Vs. Form
- ▶ ICDS notified in September 2016 applicable from A.Y. 2017-18
- ▶ Concept of Test Check
- ▶ True & Fair Vs. True & Correct
- ▶ Guidance Note issued by ICAI – Implementation Guide issued on 23-8-18

Amendments w.e.f. A.Y. 2017-18

- ▶ No change in Limit – It continues to be Rs. 1 Crore for business and 50 Lakhs for profession
- ▶ Amendments made in 44AD
 - Limit enhanced to Rs. 2 Crores only if profit declared under the scheme
 - No Deduction of Interest and Remuneration to Partners
 - Commitment for 5 years
- ▶ New Section 44ADA for notified professionals
 - Applicable if Gross Receipt is < 50 Lakhs
 - 50% of Gross receipt will be deemed income
 - No Interest and Remuneration to partners permissible (absence of provisions similar to pre-amended section 44AD)
 - Commitment for 5 years (as provided in 44AD) not required

Failure to get Tax Audit done

- ▶ Section 271B – 0.5% of Turnover – Maximum Rs. 1,50,000/-
- ▶ Section 273B – Penalty not to be imposed if there is a reasonable cause
- ▶ Reasonable Cause can be
 - Bona Fide interpretation of turnover based on expert advice
 - Death or physical disability of partner in charge of accounts
 - Labour Problems
 - Fire, Theft, etc.
 - Non availability of accounts due to seizure
 - Natural Calamity
 - Non completion of audit of earlier years





- ▶ Notification No. 33/2018 Dated 20-7-18 – applicable w.e.f. 20-8-18
- ▶ Circular No. 6 / 2018 Dt. 17-8-18 – Clauses 30C and 44 Deferred till 31-3-2019
- ▶ Implementation Guide issued by ICAI on 23-8-2018
- ▶ Avinash Gupta Vs. Union of India (2015) 378 ITR 137 (Del.)
 - There is no justification to delay in prescribing the form beyond the end of the FY
 - From next year ensure that form for Audit Report and ITR are available as on 1st April of the AY unless there is a valid reason which has to be recorded in writing
 - The respondent to take a decision whether owing to the delay in prescribing form, the extension of due date is required to be prescribed and accordingly notify the public.

Implementation Guide – Preamble

- ▶ **The audit is in respect of profits & gains of business or profession**
- ▶ **The reporting requirements under clauses relating to heads other than “profits and gains of business or profession” can be only in relation to entries made in books of account**
- ▶ **Reporting requirement does not extend to transactions not recorded in books of account**
- ▶ **As per Para 11.10 of the Guidance Note on Tax Audit particulars in Form 3CD are the responsibility of the assessee and the tax auditor is merely verifying the correctness of the particulars**
- ▶ **Tax Audit is also subject to Peer Review hence auditor is required to retain working papers and other documents that demonstrate the work done by him and support the stand taken by him while reporting**

Amendments to Form 3CD

- ▶ Amendments to Existing Clauses
 - Micro Amendments
 - Substantial Amendments
 - Clause 31 – Section 269ST
 - Clause 34(b) – TDS Compliance

- ▶ New Clauses Added
 - Clause 29A – Sec. 56(2)(ix)
 - Clause 29B – Sec. 56(2)(x)
 - Clause 30A – TP Adjustments – Sec. 92CE
 - Clause 30B – Section 94B– Limitation on Interest Deduction
 - Clause 30C – GAAR – Section 96
 - Clause 36A – Deemed Dividend – Section 2(22)(e)
 - Clause 42 – Form No. 61 / 61A / 61B
 - Clause 43 – Sec. 286 – Country by Country Reporting
 - Clause 44 – Break up of Total Expenditure – Registered Dealer / Not Registered Dealer under GST

Micro Amendments

- ▶ Clause – 4 – Reference to GST in clause 4
 - IG : Even if liability is only under RCM the fact of being liable is to be mentioned with clarification that liability is under RCM
 - All GST Numbers to be mentioned in case of multi state registrations
- ▶ Clauses 19 and 24 – Reference to Section 32AD
 - Clause 19 – Debited to P & L A/c. NIL – Eligible Deduction – 15% of cost of new plant and machinery
 - Clause 24 – Reporting if deduction u/s. 32AD availed in earlier year and asset sold within 5 years

Micro Amendments

- ▶ Clause 26 – Reference to clause (g) of Sec. 43B – Sum payable by the assessee to Indian Railway for use of Railway Assets
 - IG : Payment of Basic Freight will not be covered since it is for service of transport and not for use of Railway Asset
 - Would include Hire of Railway Wagons or sidings or lease rent for use of Railway Land and Buildings
 - Payment for hoardings – By Advt. Agencies and by Advertiser Directly
- ▶ Clause – 31(c) 31(d) and 31(e) – Few words amended to meet the actual purpose of the clause

WE DO NOT
ACCEPT CASH

Clause 31 – Section 269ST

- ▶ Receipt of Amount exceeding 2 Lakhs
 - Otherwise than by cheque or draft or Electronic clearing system – 31(ba)
 - If cheque / DD is not account payee cheque – 31(bb)
- ▶ **Payment of Amount** exceeding 2 Lakhs in violation of Section 269ST
 - Otherwise than by cheque or draft or Electronic clearing system – 31(bc)
 - If cheque / DD is not account payee cheque – 31(bd)
- ▶ Similarly clause (d) and (e) requires reporting which affects the opposite party
 - **Repayment made** by assessee's borrower – Section 269T

Clause 31 – Details Required

- ▶ Name, Address and PAN (if available with assessee) of payer / receiver
- ▶ Nature of Transaction (*See Note below*)
- ▶ Amount of Receipt / Payment
- ▶ Date of Receipt / Payment (*See Note below*)

Note : Nature of Transaction and Date of Transaction not required where the transaction is by cheque / draft but not account payee cheque / draft

Restriction on Cash Transactions



- Section 269ST
 - Receipt of an amount of Rs. 2 Lakhs or more prohibited
Otherwise than –
 - Account Payee cheque / draft / Electronic clearing system
 - In aggregate from a person in a day
 - Different bills totalling to Rs. 2 Lakhs or more
 - In respect of a single transaction
 - A bill more than 2 Lakhs – payment on each day less than 2 Lakhs in cash
 - In respect of transaction relating to one event / occasion from a person
 - *Same person receiving more than Rs. 2 Lakhs by cash in respect of a single event.*
 - *Type of product or services may be same or different.*

Restriction on Cash Transactions



- Excluded–
 - Receipts by Government,
 - Receipts by any banking company, post office savings bank or co-operative bank
 - Transactions of the nature referred to in Sec. 269SS
 - Any other person or class of persons to be notified – Notification No. 57 Dt. 3-7-2017 (Mainly banking Industry)
- Relaxation
 - For NBFC and Housing Finance Companies – Each Installment is a transaction – Circular No. 22 Dt. 3-7-17
- Section 271DA
 - Penalty equal to amount of receipt
 - No penalty if proved that there are good and sufficient reasons for contravention – Proviso to 271DA – also section 273B
 - Penalty to be levied by Jt. Commissioner

Issues ????



- Transactions by Journal Entries
 - CIT Vs. Triumph International Finance Ltd. ITA No. 5745 of 2010 (Bom. HC)
 - CIT Vs. Noida Toll Bridge Co. Ltd. (2003) 262 ITR 260 (Del.)
 - CIT Vs. Bombay Conductors & Electricals Ltd. (2008) 301 ITR 328 (Guj)
 - **Implementation Guide : Such adjustments are not receipt / payment under section 269ST – Need not be reported but suitable note may be given**
- Cash Withdrawn from Bank ? – CBDT Press Release Dt. 5-4-17
- Partnership and Partners
 - Cash withdrawn from partnership firm for Drawings or otherwise
 - Cash brought in by partners as capital
 - Cash taken for Expense purposes – Balance to be replenished.

Issues ????



- Cash Gift Received
 - From Relatives
 - At the time of marriage
 - From Non relatives but source can be explained
- Household expenses taken by housewife from husband
 - Limit applies Daily / Monthly / Yearly ?
- Cash received by cultivators
 - Circular No. 27 Dt. 3-11-17 says no violation if it is less than 2 Lakhs
- Jewellery purchased from time to time by a person from jeweller for wedding
- Sale of Capital Assets

Clause 31 – Impl. Guide

- ▶ Government Vs. Government Company
 - No reporting required in case of receipt from / payment to a government company (due to language of Note below clause 31)
 - For payments made to government – no disclosure – give a suitable note
- ▶ No difference between revenue and capital account
- ▶ For clauses 31(bb) and 31(bd) – in absence of evidences the guidance given under para 49.6 of guidance note under similar circumstances shall apply here also
- ▶ Information to be retained in working paper for all clauses is given in Implementation guide

Clause 34(b) – Amendment

- ▶ Information required about the statement of TDS / TCS like Type of Form, Due Date of Furnishing, Actual Date of Furnishing etc.
 - Information **not required** in cases where the statements have been filed within the due date prescribed.
 - **Amendment** : Information will be required to be given once the assessee is required to furnish the statements of TDS / TCS
- ▶ Earlier Tax Auditor was only required to state whether all the transactions which are required to be reported are reported or not in the TDS statement – Yes or No

Clause 34(b) – Amendment

- ▶ Now the Tax Auditor will also need to prepare a comprehensive list of all the transactions which were **required to be reported but not actually reported.**
- ▶ **What about the concept of Test Check ??**
- ▶ Whether all the transactions have to be reported here or only the transactions in which TDS is deducted ?
 - No Deduction due to certificates / Forms
 - No Deduction due to threshold limit not exceeded

Clause 34(b) – Impl. Guide

- ▶ The auditor should take into consideration relevant sections, rules, notifications, circulars and various judicial pronouncements in relation to transactions of relevant payments or collections. – As stated in Para 59.2 of Guidance Note on Tax Audit
- ▶ If tax auditor does not agree with the interpretation/view taken by the auditee, → Report about the views as observation in clause (3) of Form No. 3CA or clause (5) of Form No. 3CB, as the case may be.

New Clause 29A – Sec. 56(2)(ix)

- ▶ Section 56(2)(ix) : Forfeiture of Advance received for Transfer of Capital Asset where transfer eventually does not take place is IFOS – Inserted w.e.f. A.Y. 2015–16
- ▶ Clause 29A – Details required for such forfeiture – Nature of Income and amount to be reported.
- ▶ Clauses 28, 29, 29A, 29B etc. expands the Scope of Tax Audit to Income from Other Sources – Preamble to Implementation Guide restricts the reporting requirements
- ▶ How to detect that an amount has been forfeited in absence of accounting entry ?
- ▶ Year of taxability of long standing credit

New Clause 29A – Implementation Guide

- ▶ No reporting required for forfeited amount in respect of a **personal capital asset** where no entries are recorded in the books of account.
- ▶ Reporting required only if an advance is outstanding for a considerable period of time.
- ▶ No reporting unless it is forfeited by an act of the assessee – Should be a positive Act
- ▶ No reporting required for Forfeiture of amount in respect of **stock in trade** – will get covered u/s. 28(i)
- ▶ There should be a **right to forfeiture** as per the contract

New Clause 29A – Implementation Guide

- ▶ A mere notice of forfeiture contested by other party will not amount to forfeiture
- ▶ If not written back by assessee – not to report giving stand of the assessee
- ▶ If assessee contends that amount is not forfeited then the auditor shall look at **totality of developments and may obtain MR.**
- ▶ **Unilateral write back** of amount without any contractual right may not amount to forfeiture but may give indication to that effect.
- ▶ **Write back without forfeiture** – Auditor should use professional judgment

New Clause 29B – Sec. 56(2)(x)

- ▶ Present clause 28 – covers details of transactions u/s. 56(2)(viia) – **56(2)(vii) not to be reported**
- ▶ Clause 29B – Details to be given for Incomes referred in sec. 56(2)(x)
- ▶ Nature of Income and amount to be reported.
- ▶ Expands scope of reporting to cases hitherto covered by 56(2)(vii)
- ▶ Relaxation of 5% vis-à-vis Immovable Property is applicable w.e.f. A.Y. 2019-20 – For current year no relaxation

Sec. 56(2)(x) – Statutory Amendments

- ▶ Section 56(2)(x) : Merger of Erstwhile Section 56(2)(vii) and 56(2)(viia) w.e.f. 1-4-17
- ▶ 56(2)(vii)
 - Applicable to Individual / HUF
 - For Money / Immovable Property / Other Property for no consideration or inadequate consideration
- ▶ 56(2)(viia)
 - Applicable to Firm / CHC
 - For shares of a CHC for no consideration or inadequate consideration
- ▶ 56(2)(x) – Applies to All assesseees for Money / Immovable Property / Other Property

Sec. 56(2)(x) – Issues

- ▶ Whether fresh issue of shares is covered
 - Khoday Distilleries Ltd. Vs. CIT 307 ITR 312 (SC) – Allotment of shares is appropriation out of unappropriated share capital – Does not amount to transfer
- ▶ Whether Bonus shares received will be covered
 - CIT Vs. Dalmia Investment Co. Ltd. 52 ITR 567 (SC) – Bonus shares are without payment but not without consideration
- ▶ Whether Right Shares subscribed at less than FMV will be covered
 - Proportionate allotment
 - Disproportionate allotment
 - Sudhir Menon HUF Vs. ACIT 148 ITD 260 (Mum.)

Sec. 56(2)(x) – Rule 11UA Issues

- ▶ FMV of unquoted equity shares to be made as per formulae in Rule 11UA(1)(c)(b) – Rule amended w.e.f. 1-4-2018 i.e. A.Y. 2018-19
- ▶ Value as per amended Rule = $(A+B+C+D-L) \times (PV) / (PE)$
- ▶ If company A's shares are to be valued and Company A holds shares of company B, C & D then the FMV of all these has to be found for valuing shares of A
 - One needs to compute value of each step down companies in the process.
 - Difficulties in cases where shares of many companies are owned by the company whose shares are to be valued.
 - Difficulties in getting the data for the step down companies which are not group companies.
 - No threshold provided – Even if one share of an unlisted company is owned – calculation is necessary

Clause 29B – Implementation Guide

- ▶ *“The tax auditor should obtain a certificate from the assessee regarding any such receipts during the year, either received in his business or profession or recorded in the books of account of such business or profession.”*
 - Receipts in Personal accounts or not recorded in business books – suggestively out of purview of reporting
- ▶ If valuation disputed by assessee before the stamp authorities, and dispute is pending as on the date of finalisation of the audit
→ Mention about the facts giving (a) value adopted by stamp authorities and (b) stamp duty value claimed by the assessee to be the correct value in such dispute.
- ▶ In case of any doubt about valuation – advisable to refer to registered valuer

Clause 36A – Deemed Dividend

- ▶ New clause 36A requires information to be given for Amount of Deemed Dividend as per sec. 2(22)(e) and date of receipt
- ▶ Subject of Deemed Dividend is prone to tremendous litigation
- ▶ Practical Difficulties
 - How to find out accumulated profit of the payer company
 - Possession of Accumulated Profits on the date of transaction
 - Difficulty in identifying the payments made on behalf of the share holder
 - Accumulated profits which can be distributed and which cannot be distributed – Bifurcation to be made

Clause 36A – Issues

- ▶ Who is to be taxed – Registered share holder or beneficial share holder
 - ACIT Vs. Bhaumik Colour Pvt. Ltd. 118 ITD 1 (Mum. SB)
 - CIT Vs. Universal Medicare Pvt. Ltd. 324 ITR 263 (Bom.)
 - CIT Vs. Ankitech Pvt. Ltd. 340 ITR 14 (Del.) – Approved by SC in CIT Vs. Madhur Housing Development Co. – Civil Appeal No. 3961 of 2013
 - CIT Vs. National Travel Services 347 ITR 305 (Del.)
 - National Travel Services Vs. CIT 401 ITR 154 (SC) – Issue referred to a larger bench
 - Gopal and Sons HUF Vs. CIT 145 DTR 289 (SC) – Loan given to HUF treated as deemed dividend

Clause 36A – Deemed Dividend

▶ Loans Vs. Deposits

- Inter corporate deposits are not loans – not subject to 2(22)(e)
– Bombay Oil Industries Ltd. Vs. DCIT 28 SOT 383 (Mum.)

▶ Advances made in the ordinary course of business for business exigencies

- CIT Vs. Ambassador Travels P. Ltd. (Del.)
- CIT Vs. Creative Dyeing & Printing P. Ltd. 318 ITR 476 (Del.)
- Sri Satchidanand S. Pandit V. ITO 19 SOT 213 (Mum.)
- NH Securities Ltd. V. DCIT 11 SOT 302 (Mum.)

▶ Transactions in the nature of Current Account

- ITO Vs. Gayatri Chakraborty 45 ITR 197 (Kol.)(Trib.) – affirmed by Kol HC in CIT Vs. Gayatri Chakraborty 94 taxmann.com 244 (Kol.)
- CIT Vs. India Fruits Ltd. 274 CTR 67 (AP)
- CBDT Circular No. 19/2017 Dt. 12-6-2017

Clause 36A – Deemed Dividend

▶ Inclusions and Exclusions

- Accumulated Profits shall be commercial profits and not assessed income – CIT Vs. P. K. Badiani 105 ITR 642 (SC)
- Capital Profits not to be included – Tea Estate India Pvt. Ltd. Vs. CIT 103 ITR 785 (SC)
- Profit earned u/s. 41(2) is not part of Accumulated Profit – CIT Vs. Urmila Ramesh 230 ITR 422 (SC)
- Revaluation Reserve – Book entry – May not be included
- Development Rebate Reserve and Investment Allowance Reserves – to be included
- Share Premium and Share forfeiture – Capital Reserves – Dy. CIT Vs. Maipro India Ltd. 116 TTJ 791 (Del.) / Jaikishan Dadlani Vs. ITO 4 SOT 138 (Mum.)
- Amount treated as Deemed Dividend in past is to be excluded for determining Accumulated Profits CIT Vs. G. Narsimhan 118 ITR 60 (Mad.)

Clause 36A – Deemed Dividend

- ▶ Exception – Substantial part of Company's Assets and Income from money lending business
 - CIT Vs. Parle Plastics Ltd. 332 ITR 63 (Bom.) – Substantial does not mean More than 50% – If it is not trivial then exception applies
 - CIT Vs. Jayant H. Modi 232 Taxman 337 (Bom.)
 - CIT Vs. Shree Balaji Glass Manufacturing P. Ltd. 386 ITR 128 (Cal.)
 - Tanuj Holdings (P.) Ltd. V DCIT 46 ITR (T) 420 (Kolkata – Trib.)
 - Mrs. Rekha Modi Vs ITO 13 SOT 512 (Delhi)
 - DCIT Vs. Kishori Lal Agarwal 150 ITD 741 (Luck)

Clause 36A – Impl. Guide

- ▶ Obtain certificate from assessee containing list of closely held companies where assessee is beneficial owner of shares carrying not less than 10% of voting power
- ▶ Obtain list of “concerns” taking loans from CHCs
- ▶ Appropriate remarks in 3CA / 3CB about inability to independently verify the information and reliance on the certificates
- ▶ Payments made by CHC on behalf of assessee
 - Difficult to have any records – Remark shall be given in 3CA / 3CB
 - If already taxed in the hands of assessee as perquisite etc. – cannot be again taxed as deemed dividend – Not to be reported

Clause 36A – Impl. Guide

- ▶ Verify Form 26AS to find deduction made by companies u/s. 194 – This will indicate the view taken by the CHC
- ▶ Appropriate Remark where beneficial share holder is not the registered shareholder
- ▶ Accumulated profit on the date of transaction may be determined on **time basis** with appropriate remarks in 3CA/3CB
- ▶ Give remarks as regards the decisions relied upon for taking any stand on any legal issue

Deemed Dividend w.e.f. A.Y. 19-20

- ▶ Deemed Dividend u/s. 2(22)(e) brought within the purview of 115O with effect from A.Y. 2019-20
- ▶ Will it not be appropriate to call for these details from the auditor of payer companies ?

Clause 42 – Form 61 / 61A / 61B

- ▶ Form No. 61 – Particulars of Declaration received in Form No. 60
- ▶ Form No. 61A – Statement of SFT u/s. 285BA(1)
- ▶ Form No. 61B – Statement of Reportable Account u/s. 285BA(1)
- ▶ Information to be given
 - ITDREN
 - Type of Form
 - Due Date of Furnishing Return
 - Date of Furnishing
 - Whether the form contains information about all transactions – If not give details for transactions which are not reported.

Clause 42 – Impl. Guide

- ▶ Form 61
 - To verify whether assessee has entered any transactions where the other party was required to give PAN but gave Form 60 – Assessee need to file Form 61 – Details to be given about filing of Form 61
- ▶ Form 61A
 - Auditor to verify the applicability of sec. 285BA read with Rule 114E
 - Applies also for Issue of Bonds / Shares and Buy back of shares for listed companies – Not regular transactions – special attention required
 - Receipt of cash payment above Rs. 2 Lakhs by all assesseees under Tax Audit – Different in operation than sec. 269ST – Payment for different transactions on different dates covered here
- ▶ Form 61B
 - Auditor should refer the CBDT Guidance Note on FATCA / CRS Released in November 2016
 - Tax auditor should review Due Diligence Procedures in accordance with Rule 114H
 - Review list of Reportable Accounts identified by the due diligence process and information to be maintained and reported

Clause 44 – GST Details



Breakup of Total Expenditure of entities registered or not registered under the GST

Sl. 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)

Clause – 44 – Issues



Deferred

- ▶ What is the purpose of this Clause ?
- ▶ Effect of Deferral of Clause
- ▶ Bifurcation between Non GST regime and GST regime for F.Y. 17–18
- ▶ Details to be given for each expenses separately or total expenses ?
- ▶ Break up of Purchases ?
- ▶ Whether and How to report Import Purchases ?
- ▶ Capital Expenditure whether to be reported ?
- ▶ Similar details are to be given in Annual Return of GST – Due date 31st December
- ▶ Can the Tax Auditor rely on Certificate of GST Expert

Clauses 30A and 30B

- ▶ Clause 30A – Information about primary adjustment and consequential secondary adjustment – Repatriation of amount of primary adjustment to India – Interest on amount not repatriated etc.
 - Time limit available for repatriation is 90 days from the due date of Return
 - Primary adjustment made by AO will be known only at the stage of assessment – How to report at audit stage ? Whether to report for the earlier year's adjustment made ?
- ▶ Clause 30B – Sec. 94B – Thin Capitalisation – Interest to be restricted to 30% of EBITDA
 - Similar information in Form 3CEB – Duplication of work

Cl. 30A – Impl. Guide

- ▶ Primary adjustments may not necessarily be confined to year under consideration
- ▶ Disclosure to be made for each and every type of PA irrespective of the year to which it pertains
- ▶ Certificate from assessee about
 - TP adjustments made in Return of Income filed during the year (May be more than one)
 - Advance Pricing Arrangement entered
 - TP Adjustments made in assessment / confirmed in appeals
 - Agreement arrived at under Mutual Agreement Procedure
- ▶ Obtain a MR for information to be True and accurate
 - Disclose about MR in Report – Primary onus on management

Cl. 30A – Impl. Guide

- ▶ If the PA amount not repatriated – Imputed Interest income to be computed
- ▶ Obtain Certificate for SBI / LIBOR Rate and provide computation – Verify the computation
- ▶ Interest to be computed upto the end of the FY and not upto the date of completion of audit – If Interest computed upto date of audit report – give break up upto FY and beyond
- ▶ Imputed Interest Income may relate to PAs made in more than one year → Only to report the Interest pertaining to PAs made during the year under audit

Clause 30B – Impl. Guide

- ▶ “Expenditure of similar nature” as per section 94B would include discount or premium on securities, finance cost component of lease rentals or other finance charges
- ▶ For computing the limit of Rs. 1 Crore, interest and expenditure of similar nature, disallowable under other sections like 14A, proviso to 36(1)(iii), 40(a)(i) or 40A(2) should not be considered. – Also Interest disallowed on TP adjustment should not be considered
- ▶ Recognises two views – whether limit of 1 Cr. is for each AE or all AEs together – Appropriate disclosure as per view taken by assessee
- ▶ Computation of disallowance of Interest shall be only in respect of Non-resident AEs and not for Resident AEs.
- ▶ EBITDA to be computed on final audited stand alone accounts

Clause 30C – GAAR

Deferred

- ▶ Whether the assessee has entered into Impermissible Avoidance Arrangement as per section 96 – If yes give Nature of IAA and Amount of Tax Benefit to **ALL PARTIES** to Agreement
 - Labeling an arrangement as Impermissible is perception of AO and not assessee
 - Does an Auditor have power of AO to make detailed investigation to find such IAA
 - Reference to Pr. CIT and also GAAR panel is required
 - How the benefit to other parties will be determined
 - Auditor whether a watchdog or a blood hound ?



Clause 43 – CBC Reporting

- ▶ International groups required to furnish country by country report – Section 286(2)
- ▶ Clause 43 – If Sec. 286 applicable – give details
 - Whether report furnished by assessee or parent entity or alternate reporting entity
 - Name of Parent entity
 - Name of alternate reporting entity (if applicable)
 - Date of furnishing report
- ▶ Time limit available u/s. 286 is 12 months from end of accounting year – Report may not have been filed though applicable

Broad Message

- ▶ CA – **C**onsistent **A**chiever
- ▶ Do Remember : When the going gets tough the Tough gets going





Vajani & Vajani
Chartered Accountants
Phone : 2374 0792
Handphone : 09820525972
Email: caketanvajani@gmail.com

