

# Tax Audit Report under Form 3CD

*A Clause-wise Deep Dive: Clause No. 27 to 35*

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- Exact statutory wording (Form 3CD) for each clause
- Background & statutory history
- Relevance under the Income-tax Act, 1961 – sections explained in brief
- Standards on Auditing & Management Representations
- Checkpoints for data entry
- Judicial trend – Favour / Against / Pending
- Cross-reference with the Income-tax Act, 2025

**Duration: 60 minutes**

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# Form 3CD at a Glance – Where Clauses 27–35 Fit

## PART A

### Clauses 1–8

General & identification particulars of the assessee (PAN/Aadhaar, status, previous year, relevant clause of Sec. 44AB, indirect-tax registration).

## PART B – Early Clauses

### Clauses 9–26

Books of account, method of accounting, ICDS adjustments, stock valuation, depreciation, statutory disallowances u/s 36/37/40/40A/43B.

## PART B – Today's Focus

### Clauses 27–35

Indirect-tax credits, Sec. 56(2) receipts, deemed income (69D), transfer pricing & GAAR add-ons, cash-transaction restrictions, carry-forward of losses, Chapter VI-A deductions, TDS/TCS, quantitative stock details.

## PART B – Closing Clauses

### Clauses 36–44

Deemed dividend/buy-back, cost audit/excise audit, turnover/GP ratios (clause 40), GST expenditure break-up (clause 44) and other residual reporting.

# Framework for Each Clause

*Every clause group (27–35) is examined across four slides*

## 1 Exact Wording

Verbatim text of the clause as notified in Form 3CD

## 2 Background & Relevance

Since when incorporated, and the supporting sections of the Income-tax Act, 1961 – explained in brief

## 3 SA, MRL & Checkpoints

Standards on Auditing, Management Representations, and points to verify while keying in data

## 4 Judicial Trend & IT Act 2025

Rulings in Favour, Against and Pending, plus the cross-reference under the new Act

# CENVAT / GST Input Tax Credit & Prior Period Items

## Exact Wording – Form No. 3CD

### Clause 27(a)

*“Amount of Central Value Added Tax credits availed of or utilised during the previous year and its treatment in the profit and loss account and treatment of outstanding Central Value Added Tax credits in the accounts.”*

### Clause 27(b)

*“Particulars of income or expenditure of prior period credited or debited to the profit and loss account.”*

*Source: Form No. 3CD [Rule 6G(2)], Income-tax Rules, 1962 (as amended)*

# CENVAT / GST Input Tax Credit & Prior Period Items

## Explanation

### Clause 27(a)

The objective is **factual reporting of credit and its accounting treatment**.

The ICAI Guidance Note explains that the tax auditor should ascertain the credit availed and utilised from the relevant records and also consider the treatment of outstanding credit in the accounts.

## What should be reconciled?

| Source                                        | What to verify                       |
|-----------------------------------------------|--------------------------------------|
| <b>GST returns</b>                            | ITC reported/availed                 |
| <b>Electronic Credit Ledger</b>               | Credit actually available/utilised   |
| <b>Purchase register</b>                      | Input tax appearing on purchases     |
| <b>ITC ledger</b>                             | Accounting records                   |
| <b>GSTR-2B / relevant auto-populated data</b> | Supporting reconciliation            |
| <b>Reversal working</b>                       | Reversed/ineligible ITC              |
| <b>Financial statements</b>                   | Effect of ITC on expense/cost/assets |
| <b>Form 3CD</b>                               | Final reported figure                |

# Key Audit Considerations for ITC Reporting under Clause 27(a)

- **ITC Availed ≠ ITC Utilised**

**Availment** means credit taken/recognised, while **utilisation** means credit actually used against tax liability. This distinction should be clearly recorded in the working paper.

- **Accounting Treatment**

The auditor should verify whether ITC is **recoverable** and how it is reflected in the accounts. If ITC is permanently ineligible, the tax component may form part of the relevant cost/expense, as applicable.

- **Clause 27(a) is NOT an ITC Audit**

Clause 27(a) requires reporting of **specified particulars** and is not a complete GST audit. Every GST mismatch should not automatically result in a Clause 27(a) qualification; first assess whether it affects the required Form 3CD reporting.

- **SA Framework**

- **SA 315:** Identify ITC-related risks.
- **SA 330:** Perform appropriate procedures such as reconciliation and testing.
- **SA 500:** Obtain sufficient appropriate audit evidence.
- **SA 230:** Properly document verification, discrepancies and conclusions.

- **Management Representation**

Where material or complex, obtain a specific **MRL** confirming completeness and accuracy of ITC particulars and relevant reversals/adjustments. However, **MRL is supporting evidence and not a substitute for audit evidence.**

**Approach:**

**GST Records + Books + Reconciliation + Supporting Evidence + MRL**

# CENVAT / GST Input Tax Credit & Prior Period Items

## Background – Since When?

Prior-period reporting has existed since the Form's inception. The CENVAT-credit wording was reformatted under the Income-tax (Eighth Amdt.) Rules, 2018 (Notification 33/2018, 20-Aug-2018); GST-linked confusion has persisted since the GST rollout (1-Jul-2017) as the notified form still refers only to “Central Value Added Tax credits”.

## Relevance – Income-tax Act, 1961

- **Sec. 145A** – Mandates the inclusive method of valuation – purchase, sale and inventory figures must include any tax, duty, cess or fee actually paid or incurred to bring the goods to the point of sale.
- **AS-5 / Ind AS-8** – Governs recognition and separate disclosure of prior-period items and changes in accounting policy.
- **Sec. 43B** – Allows specified statutory dues (including indirect-tax dues) as a deduction only on actual payment – relevant where credit balances remain unpaid/unutilised.

# CENVAT / GST Input Tax Credit & Prior Period Items

## Standards on Auditing & Management Representation

- SA 500 – audit evidence for credit reconciliation
- SA 580 – MRL confirming prior-period classification & consistent accounting policy

## Points to Check While Inserting Data

- Reconcile with GSTR-2B/3B and the Electronic Credit Ledger
- Confirm P&L treatment is consistent with Sec. 145A (inclusive method)
- Prior period items disclosed separately – not merged with current year figures

# CENVAT / GST Input Tax Credit & Prior Period Items

## Judicial Rulings

### FAVOUR

Consistent method of accounting, once accepted, cannot be disturbed by the AO – principle affirmed in CIT v. Excel Industries Ltd (2013) 358 ITR 295 (SC).

### AGAINST

Where an unutilised credit or tax element distorts true profits, ITAT benches have upheld adjustment u/s 145A despite the assessee's stated method.

### PENDING

Mismatch between the officially notified clause wording (“CENVAT/Central VAT credit”) and the e-filing utility (which references “Input Tax Credit”) – flagged in ICAI's 2025 Guidance Note; reporting basis remains an open question.

## Cross-Reference – Income-tax Act, 2025

Sec. 145A → renumbered valuation provision in Ch. IV-D (Profits & Gains of Business); Sec. 44AB → New Sec. 63

## CLAUSE 27 – INFORMATION TO BE FURNISHED

### Clause 27A

| 27 (a) Amount of Central Value Added Tax credits, Input Tax Credit(ITC) availed of or utilised during the previous year and its treatment in the profit and loss account and treatment of outstanding Central Value Added Tax credits in the accounts. |                             | Select   |                                      |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|----------|--------------------------------------|
|                                                                                                                                                                                                                                                        | CENVAT/ITC                  | Amount * | Treatment in Profit & Loss / Account |
| ▶ 1                                                                                                                                                                                                                                                    | Opening Balance             |          |                                      |
| 2                                                                                                                                                                                                                                                      | Credit Availed              |          |                                      |
| 3                                                                                                                                                                                                                                                      | Credit Utilized             |          |                                      |
| 4                                                                                                                                                                                                                                                      | Closing/Outstanding Balance |          |                                      |

### Clause 27B

| (b) Particulars of income or expenditure of prior period credited or debited to the profit and loss account. |      |             |        |                                                              |                                       |        |
|--------------------------------------------------------------------------------------------------------------|------|-------------|--------|--------------------------------------------------------------|---------------------------------------|--------|
|                                                                                                              | Type | Particulars | Amount | Prior period to which it relates<br>(Year in yyyy-yy format) | Amount available in<br>General info 2 | Delete |
| #1                                                                                                           | ▼    |             |        | ▼                                                            |                                       |        |

# Sec. 56(2) Receipts – Clauses 28 & 29 (Omitted); Clauses 29A & 29B (Operative)

## Exact Wording – Form No. 3CD

### Clauses 28 & 29

*““28. & 29. [\*\*\*]” – omitted by the Income-tax (Eighth Amendment) Rules, 2025, w.e.f. 1-4-2025.”*

### Clause 29A

*“(a) Whether any amount is to be included as income chargeable under the head ‘Income from Other Sources’ as referred to in clause (ix) of sub-section (2) of section 56? (Yes/No) (b) If yes:*

*(i) Nature of income*

*(ii) Amount thereof.”*

### Clause 29B

*“(a) Whether any amount is to be included as income chargeable under the head ‘Income from Other Sources’ as referred to in clause (x) of sub-section (2) of section 56? (Yes/No) (b) If yes:*

*(i) Nature of income*

*(ii) Amount (in Rs.) thereof.”*

*Source: Form No. 3CD [Rule 6G(2)], Income-tax Rules, 1962 (as amended by the IT (Eighth Amdt.) Rules, 2025 & IT (Eighth Amdt.) Rules, 2018)*

## Sec. 56(2) Receipts – Clauses 29A & 29B (Operative)

### Background – Since When?

Clauses 28 (Sec. 56(2)(viia)) and 29 (Sec. 56(2)(viib)) were part of the original clause set and formally omitted by the IT (Eighth Amdt.) Rules, 2025, w.e.f. 1-4-2025 – consistent with 56(2)(viia) already being omitted from AY 2018-19 and 56(2)(viib) ceasing to apply to any investor class from AY 2025-26 (Finance (No.2) Act, 2024). Clauses 29A and 29B were inserted by Notification 33/2018 (20-Aug-2018) and remain fully operative.

### Relevance – Income-tax Act, 1961

- **Sec. 56(2)(viia)/(viib)** – [Now omitted] Formerly taxed shares received by a closely held company/firm for inadequate consideration (viia), and share premium received by a closely held company in excess of fair market value (viib) – the ‘angel tax’ provision.
- **Sec. 56(2)(ix)** – Taxes an advance or earnest money received in the course of negotiations for transfer of a capital asset, which is forfeited and retained by the assessee, as income from other sources.
- **Sec. 56(2)(x)** – Taxes money or property (movable/immovable) received without consideration, or for inadequate consideration, above prescribed thresholds, subject to specified exclusions (relatives, inheritance, marriage, etc.).

## Clause 29A & 29B – Deemed Income under Section 56

| Particulars     | Clause 29A                                                                                                           | Clause 29B                                                                                                         |
|-----------------|----------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
| Section         | 56(2)(ix)                                                                                                            | 56(2)(x)                                                                                                           |
| Nature          | Forfeited advance                                                                                                    | Gift / Deemed Gift                                                                                                 |
| Trigger         | Advance received for transfer of a <b>capital asset</b> , but transfer does not take place and advance is forfeited  | Money/property received <b>without consideration or for inadequate consideration</b>                               |
| Tax Head        | Income from Other Sources                                                                                            | Income from Other Sources                                                                                          |
| Example         | Advance ₹10 lakh received for sale of land → sale fails → ₹10 lakh forfeited → <b>check taxability u/s 56(2)(ix)</b> | Property purchased for ₹40 lakh; SDV ₹50 lakh → <b>difference may be taxable</b> , subject to statutory conditions |
| CA Audit Focus  | Trace <b>advance</b> → <b>proposed transfer</b> → <b>failure of transfer</b> → <b>forfeiture</b>                     | Check <b>nature of receipt, consideration, valuation, threshold &amp; exceptions</b>                               |
| Key Documents   | Sale agreement / MOU / advance receipt / cancellation terms                                                          | Gift deed / sale deed / valuation / bank records                                                                   |
| Important Point | Do not merely search for “forfeiture” in books                                                                       | <b>Not every gift is taxable</b> ; check statutory exceptions                                                      |
| Reporting Point | Identify taxable forfeiture                                                                                          | Report <b>Nature of income + Amount</b> , where relevant entries exist in books of business/profession             |

## Clauses 29A & 29B (Operative)

### Standards on Auditing & Management Representation

- SA 500 – evidence of valuation reports / agreements
- SA 620 – using the work of a valuation expert
- MRL confirming completeness of forfeitures (29A) and receipts of money/property (29B)

### Points to Check While Inserting Data

- Confirm the year of the transaction – clauses 28/29 are relevant only for pre-1-4-2025 legacy items
- For 29A/29B, verify the nature and quantum of every forfeiture, gift or under-valued receipt during the year
- Check applicable exclusions – relatives, inheritance, marriage, amalgamation/demerger, and DPIIT start-up carve-outs

## Clause 29A & 29B – Case Laws

| Clause | Provision                                         | Best Case Law                                                  | Key Ratio / Relevance                                                                                                                                                                                                                                                                   |
|--------|---------------------------------------------------|----------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 29A    | Sec. 56(2)(ix)                                    | Travancore Rubber & Tea Co. Ltd. v. CIT – Supreme Court (2000) | Forfeited advance relating to transfer of a capital asset was held to be a <b>capital receipt under the then-existing law</b> . This decision led to insertion of <b>Sec. 56(2)(ix)</b> w.e.f. AY 2015-16.                                                                              |
| 29A    | Sec. 56(2)(ix)                                    | Ramesh Babu Nimmatoori & Ors. v. ACIT – ITAT Hyderabad (2024)  | Sec. 56(2)(ix) requires <b>actual forfeiture of advance</b> and failure of negotiations to result in transfer; where the transaction subsequently proceeded, the provision was not attracted.                                                                                           |
| 29B    | Sec. 56(2)(x) [Sec. 50C ratio applied by analogy] | CIT v. Greenfield Hotels & Estates Pvt. Ltd. – Bombay HC       | Held (following <i>Atul G. Puranik v. ITO</i> ) that the deeming fiction under <b>Sec. 50C does not cover leasehold rights</b> in land/building; this reasoning is often applied by analogy when examining whether leasehold rights fall within "immovable property" for Sec. 56(2)(x). |

## Sec. 56(2) Receipts – Clauses 28 & 29 (Omitted); Clauses 29A & 29B (Operative)

### Judicial Rulings

#### FAVOUR

Valuation adopted per the prescribed Rule 11UA method upheld – AO cannot substitute his own method once a prescribed method is correctly followed (line of rulings including Cinestaan Entertainment (P.) Ltd v. ITO, Delhi ITAT).

#### AGAINST

Where valuation reports lacked contemporaneous projections/assumptions, Tribunals have rejected the report and sustained additions under Sec. 56(2)(x).

#### PENDING

Applicability of Sec. 56(2)(x) to internal group restructuring, bonus and rights issues, and to legacy (viiia)/(viib) assessments still in appeal, continues to see divergent Tribunal views.

### Cross-Reference – Income-tax Act, 2025

56(2)(viiia)/(viib) have no direct 2025 Act equivalent – legacy assessments tracked under the repeal & savings clause; 56(2)(ix)/(x) → New Sec. 92 ('Income from Other Sources').

## CLAUSE 29 – INFORMATION TO BE FURNISHED

### Clause 29A

29 A(a) Whether any amount is to be included as income chargeable under the head 'income from other sources' as referred to in clause (ix) of sub-section (2) of section 56?

Select



A (b) If yes, please furnish the following details:

|    | Nature of Income | Amount | Delete |
|----|------------------|--------|--------|
| *1 |                  |        |        |

### Clause 29B

29 B(a) Whether any amount is to be included as income chargeable under the head 'income from other sources' as referred to in clause (x) of sub-section (2) of section 56? (Yes/No)

Select



B (b) If yes, please furnish the following details:

|    | Nature of Income | Amount (in Rs.) | Delete |
|----|------------------|-----------------|--------|
| *1 |                  |                 |        |

## Sec. 69D Hundi & TP/GAAR Add-ons – 30A (92CE), 30B (94B), 30C (GAAR)

### Exact Wording – Form No. 3CD

#### Clause 30

*“Details of any amount borrowed on hundi or any amount due thereon (including interest on the amount borrowed) repaid, otherwise than through an account payee cheque. [Section 69D]”*

#### Clause 30A

*“(a) Whether primary adjustment to transfer price u/s 92CE(1) has been made during the previous year? (Yes/No) (b) If yes – clause of 92CE(1) invoked; amount of adjustment; whether repatriation is required u/s 92CE(2); whether repatriated in time; if not, imputed interest on the unrepatriated excess money.”*

#### Clause 30B

*“(a) Whether the assessee incurred interest/similar expenditure exceeding ₹1 crore as referred to in section 94B(1)? (Yes/No) (b) If yes – amount of expenditure; EBITDA for the year; amount exceeding 30% of EBITDA; interest expenditure brought forward and carried forward u/s 94B(4).”*

#### Clause 30C

*“(a) Whether the assessee has entered into an impermissible avoidance arrangement referred to in section 96 during the previous year? (Yes/No) (b) If yes – nature of the arrangement; aggregate tax benefit to all parties.”*

*Source: Form No. 3CD [Rule 6G(2)], Income-tax Rules, 1962 (as amended)*

## What is Section - 92CE

**Primary adjustment = “Your international transaction price was not at Arm's Length.”**

**Secondary adjustment = “Since you effectively paid/received excess money because of that TP adjustment, that excess money should also be brought back to India or dealt with as prescribed.”**

The Income-tax Department describes secondary adjustment as an adjustment in the books of the assessee and its AE so that the allocation of profits corresponds with the arm's-length price and the cash/profit imbalance is removed

### Primary Adjustment vs Secondary Adjustment

| Particulars                      | Primary Adjustment                         | Secondary Adjustment                                                                    |
|----------------------------------|--------------------------------------------|-----------------------------------------------------------------------------------------|
| <b>Main sections</b>             | 92C / 92CA                                 | 92CE                                                                                    |
| <b>Basic purpose</b>             | Determine correct Arm's Length Price (ALP) | Deal with the excess money arising because of primary adjustment                        |
| <b>Question answered</b>         | “What should have been the correct price?” | “What should happen to the excess money?”                                               |
| <b>Nature</b>                    | Transfer pricing adjustment                | Consequential adjustment                                                                |
| <b>Example</b>                   | AE was paid ₹15 crore but ALP is ₹10 crore | ₹5 crore excess money must be repatriated / dealt with under 92CE                       |
| <b>Effect on taxable income</b>  | Directly increases/decreases income        | May result in deemed advance and interest, unless option of additional tax is exercised |
| <b>Relevant AE</b>               | Associated Enterprise                      | Associated Enterprise                                                                   |
| <b>Threshold</b>                 | Depends upon TP provisions                 | Primary adjustment > ₹1 crore for applicability of statutory 92CE mechanism             |
| <b>Effective from</b>            | TP provisions generally long-standing      | Section 92CE inserted w.e.f. 1 April 2018                                               |
| <b>Current old-Act provision</b> | 92C/92CA                                   | 92CE                                                                                    |

## When does Section 92CE apply?

Section 92CE applies when there is a **primary adjustment** and that adjustment falls into one of the specified categories.

| Sl. | Situation resulting in Primary Adjustment           | 92CE applicable? |
|-----|-----------------------------------------------------|------------------|
| 1   | Assessee voluntarily makes TP adjustment in its ITR | Yes              |
| 2   | AO makes TP adjustment and assessee accepts it      | Yes              |
| 3   | Adjustment determined pursuant to an APA u/s 92CC   | Yes              |
| 4   | Adjustment under Safe Harbour Rules u/s 92CB        | Yes              |
| 5   | Adjustment arising from MAP under section 90/90A    | Yes              |

## ₹1 crore threshold

The first proviso to section 92CE(1) provides that the provision does **not apply where the primary adjustment does not exceed ₹1 crore**

### Example 1 — ₹80 lakh adjustment

Indian company has an international transaction with its AE.

TP adjustment = **₹80 lakh**

Since:

**₹80 lakh ≤ ₹1 crore**

→ **Section 92CE secondary adjustment mechanism does not apply.**

### Example 2 — ₹1.20 crore adjustment

TP adjustment = **₹1.20 crore**

Since:

**₹1.20 crore > ₹1 crore**

→ **Section 92CE can apply, subject to the other conditions.**

The Department's current transfer-pricing guidance confirms the ₹1 crore threshold.

## Assessment-year condition ?

Section 92CE also contains a second exclusion for primary adjustments relating to an **assessment year commencing on or before 1 April 2016**.

| Assessment Year       | Section 92CE                                        |
|-----------------------|-----------------------------------------------------|
| AY 2016-17 or earlier | Not applicable                                      |
| AY 2017-18 onwards    | Potentially applicable, subject to other conditions |

CBDT's original explanation of the provision also states that it applies to primary adjustments exceeding ₹1 crore for **AY 2017-18 onwards**

## The easiest example to understand Section 92CE



Suppose:

**Indian Co. Ltd.** has an AE in USA.

Indian company purchases goods from its AE.

**Actual transaction**

AE charges: -**₹15 crore**

But based on FAR analysis/comparable, ALP is: - **₹10 crore**

Therefore:

**Excess payment = ₹15 crore – ₹10 crore = ₹5 crore**

**Primary adjustment**

Indian company's taxable income is increased by:

**₹5 crore**

This is the **primary TP adjustment**.

But there is a problem.

The Indian company has already paid the **₹15 crore** to its AE.

Economically, the Indian company has paid ₹5 crore more than what it should have paid at ALP.

That ₹5 crore is the **excess money** for section 92CE purposes.

## Miscellaneous Points

- **What if excess money is not repatriated and additional tax is NOT paid?**

Where excess money is not repatriated within the prescribed time, it is deemed to be an **advance made by the assessee to its AE**.

Interest is then computed on that deemed advance in accordance with the prescribed rules.

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- **90-day rule**

Rule 10CB prescribes the time for repatriation.

The CBDT has stated that the **90-day period** applies for qualifying primary adjustments and, where the TP adjustment is under appeal, the period starts after the adjustment attains finality

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- **92CE is NOT another primary TP adjustment**

Suppose:

**Primary adjustment = ₹2 crore**

The AO cannot simply say: - “Primary adjustment ₹2 crore + secondary adjustment ₹50 lakh = another ₹50 lakh TP adjustment”

without applying the statutory mechanism.

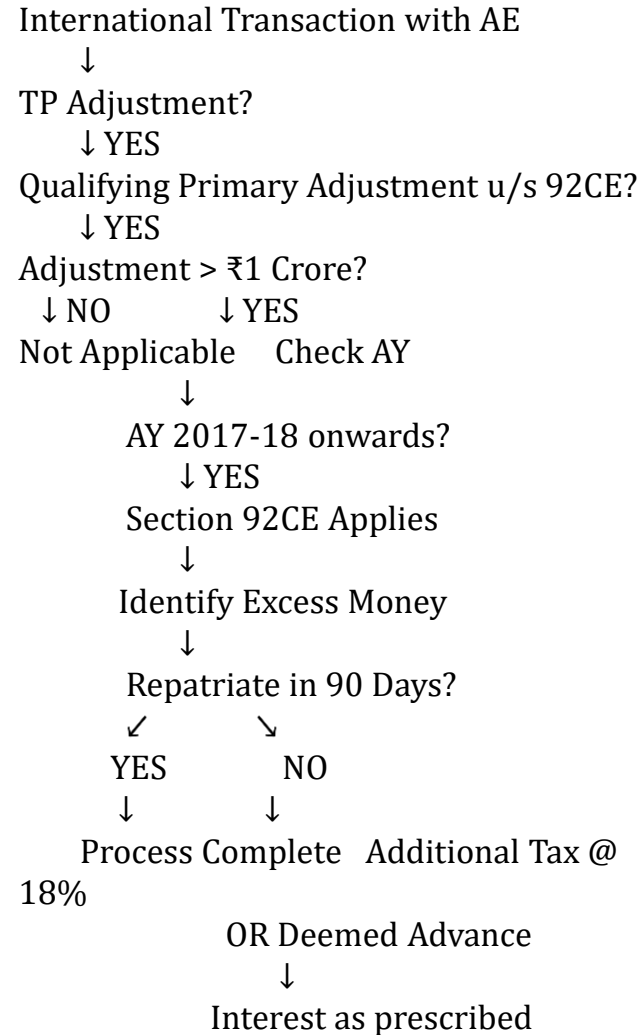
The secondary adjustment is **consequential to the primary adjustment** and deals with the excess money.

This distinction is consistent with the ruling in *Gemological Institute of America Inc. v. Addl. CIT (International Taxation)*, (2021) 127 taxmann.com 167 (ITAT Mumbai) — affirmed on further appeal by the Bombay High Court in 2026. The proviso to Sec. 92CE(1) was held not to bar a secondary adjustment/refund of excess money determined under an APA, i.e., Sec. 92CE operates only as a consequential mechanism and does not itself found a fresh charge on the foreign AE's receipt.

## what should a CA check?

- |    |                                               |    |                                                                               |
|----|-----------------------------------------------|----|-------------------------------------------------------------------------------|
| 1  | Whether assessee has an Associated Enterprise | 11 | Whether adjustment arose through MAP                                          |
| 2  | Whether there are international transactions  | 12 | Amount of excess money                                                        |
| 3  | Whether TP documentation/Form 3CEB applies    | 13 | Date adjustment attained finality                                             |
| 4  | Whether any primary TP adjustment exists      | 14 | Whether excess money was repatriated                                          |
| 5  | Amount of primary adjustment                  | 15 | Whether 90-day period was complied with                                       |
| 6  | Whether adjustment exceeds ₹1 crore           | 16 | If not repatriated, whether 18% additional tax was paid                       |
| 7  | Relevant Assessment Year                      | 17 | If neither, whether deemed advance/interest has been appropriately considered |
| 8  | Whether adjustment is accepted by assessee    | 18 | Accounting entries / disclosures                                              |
| 9  | Whether adjustment arose under APA            | 19 | Effect on subsequent year's TP computation                                    |
| 10 | Whether adjustment arose under Safe Harbour   | 20 | Reconciliation with Form 3CEB and TP order                                    |

## Decision Making – Whether it is covered in 92CE



## Section 92CE – Key Points

- ALP: Determined under Section 92C/92CA, not Section 92CE.
- Nature: Provides for secondary/consequential adjustment.
- Threshold: ₹1 crore is the key threshold.
- Applicability: Qualifying primary adjustments for AY 2017-18 onwards.
- Triggers: Self-adjustment, AO adjustment accepted, APA, Safe Harbour and MAP.
- Excess Money: Generally requires repatriation within the prescribed period.
- Additional Tax: 18% + applicable surcharge, where the option is applicable.
- Non-repatriation: If additional tax is not paid, excess money may be treated as a deemed advance to AE, attracting interest.
- Key Principle: Surviving primary adjustment is essential for secondary adjustment (Tech Mahindra).
- From 1 April 2026: Corresponding provision is reorganised as Section 170 under the Income-tax Act, 2025.

### Practical Check:

**TP Adjustment → ₹1 Crore → AY → Final/Accepted → 92CE Trigger → Repatriation → Additional Tax / Deemed Advance → Interest**

## Case Laws

### *Gemological Institute of America Inc. v. Addl. CIT (IT), (2021) (ITAT Mumbai)*

held that the proviso to Sec. 92CE(1) does not bar a secondary adjustment/refund of excess money determined under an APA (2021, 127 taxmann.com 167; affirmed by the Bombay HC on further appeal in 2026). Section 92CE operates only as a consequential mechanism on the Indian assessee's primary adjustment and does not itself found a fresh charge on the foreign associated enterprise's receipt. Practical relevance: Section 92CE cannot be used as a standalone provision to tax the foreign associated enterprise's entire receipt.

### *Tech Mahindra Ltd. v. DCIT*

The Tribunal held that where the underlying primary adjustment does not survive, no consequential secondary adjustment can arise from it. It also noted that the relevant assessment year was prior to 1 April 2016, making section 92CE inapplicable. Practical principle: Before making a secondary adjustment, verify whether a surviving primary adjustment exists for the relevant year. If the primary adjustment is deleted in appeal/DRP/final assessment, the consequential adjustment may have no foundation. Caution: This is a recent ITAT decision; its subsequent appellate status should be checked before treating it as settled law.

# Sec. 69D Hundi & TP/GAAR Add-ons – 30A (92CE), 30B (94B), 30C (GAAR)

## Background – Since When?

Clause 30 (hundi) is part of the original Form. Clauses 30A, 30B & 30C were newly inserted by the IT (Eighth Amdt.) Rules, 2018 (20-Aug-2018). Clauses 30A & 30B were reportable from AY 2019-20 without deferment; only Clause 30C (GAAR) was kept in abeyance (along with Clause 44) by CBDT Circular 6/2018 and later circulars, ultimately becoming reportable only from AY 2022-23.

## Relevance – Income-tax Act, 1961

- **Sec. 69D** – Deems money borrowed or repaid on a hundi otherwise than by account payee cheque as income of the borrower (and denies deduction to the payer), to deter unaccounted hundi dealings.
- **Sec. 92CE** – Requires a primary transfer-pricing adjustment (arising from an assessment, APA, safe harbour or a suo-motu adjustment) to be matched by actual repatriation of the excess money from the AE; failing this, notional interest income is imputed.
- **Sec. 94B** – Caps the deduction of interest/similar expenditure paid to an associated enterprise (or AE-guaranteed third-party debt) at 30% of EBITDA where such expenditure exceeds ₹1 crore; the disallowed excess can be carried forward up to 8 years.
- **Sec. 96 (GAAR)** – Empowers tax authorities to disregard an arrangement whose main purpose is to obtain a tax benefit and which lacks commercial substance or is not normally employed for bona fide business purposes.

## **Sec. 69D Hundi & TP/GAAR Add-ons – 30A (92CE), 30B (94B), 30C (GAAR)**

### **Standards on Auditing & Management Representation**

- SA 550 – Related Parties, for 30A/30B AE transactions
- SA 500 – cross-check with Form 3CEB (TP report)
- MRL confirming no impermissible avoidance arrangement

### **Points to Check While Inserting Data**

- Cross-verify 30A/30B figures against Form 3CEB and the TP study
- Confirm GAAR carve-outs/grandfathering and SAAR-GAAR interplay have been considered
- Confirm hundi borrowings are Nil, or disclosed with the mode of settlement

## Sec. 69D Hundi & TP/GAAR Add-ons – 30A (92CE), 30B (94B), 30C (GAAR)

### Judicial Rulings

**FAVOUR**

Thin-cap (Sec. 94B) additions have been deleted in cases where genuine third-party comparable interest rates were demonstrated.

**AGAINST**

Primary adjustment (Sec. 92CE) additions have been upheld where excess money was not repatriated within the prescribed time limit.

**PENDING**

GAAR invocation and its interplay with SAAR/treaty benefits remains actively litigated, given the limited case history since GAAR became effective from AY 2018-19.

### Cross-Reference – Income-tax Act, 2025

Sec. 69D → New Sec. 106; GAAR chapter renumbered (verify final section list); TP provisions (92CE) retained under a dedicated Transfer Pricing chapter.

## CLAUSE 30 – INFORMATION TO BE FURNISHED

### Clause 30

30 Details of any amount borrowed on hundi or any amount due thereon (including interest on the amount borrowed) repaid, otherwise than through an account payee cheque. [Section 69D]

Select ▼



|    | Name of the person from whom amount borrowed or repaid on hundi * | PAN of the person, if available | Aadhaar Number of person, if available | Address Line 1 * | Address Line 2 | City or Town or District * | State * | Pincode * | Amount borrowed * | Date of Borrowing * (dd/MM/yyyy) | Amount due including interest * | Amount repaid |
|----|-------------------------------------------------------------------|---------------------------------|----------------------------------------|------------------|----------------|----------------------------|---------|-----------|-------------------|----------------------------------|---------------------------------|---------------|
| *1 |                                                                   |                                 |                                        |                  |                |                            | ▼       |           |                   |                                  |                                 |               |

### Clause 30A

30 A(a) Whether primary adjustment to transfer price, as referred to in sub-section (1) of section 92CE, has been made during the previous year.

Select ▼



A(b) If yes, please furnish the following details

|    | Under which clause of sub-section (1) of section 92CE primary adjustment is made ? | Amount (in Rs.) of primary adjustment * | Whether the excess money available with the associated enterprise is required to be repatriated to India as per the provisions of sub-section (2) of section 92CE. | If yes, whether the excess money has been repatriated within the prescribed time. | If no, the amount (in Rs.) of imputed interest income on such excess money which has not been repatriated within the prescribed time | Expected date of repatriation of money (dd/MM/yyyy) | Delete |
|----|------------------------------------------------------------------------------------|-----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|--------|
| *1 | ▼                                                                                  |                                         | ▼                                                                                                                                                                  | ▼                                                                                 |                                                                                                                                      |                                                     |        |

## CLAUSE 30 – INFORMATION TO BE FURNISHED

### Clause 30B

30 B(a) Whether the assessee has incurred expenditure during the previous year by way of interest or of similar nature exceeding one crore rupees as referred to in sub-section (1) of section 94B

Select ▼



B(b) If yes, please furnish the following details

|    | Amount (in Rs.) of expenditure by way of interest or of similar nature incurred | Earnings before interest, tax, depreciation and amortization (EBITDA) during the previous year (in Rs.) | Amount (in Rs.) of expenditure by way of interest or of similar nature as per (i) above which exceeds 30% of EBITDA as per (ii) above. | Details of interest expenditure brought forward as per sub-section (4) of section 94B: Assessment Year | Details of interest expenditure brought forward as per sub-section (4) of section 94B: Amount (in Rs.) | Details of interest expenditure carried forward as per sub-section (4) of section 94B: Assessment Year | Details of interest expenditure carried forward as per sub-section (4) of section 94B: Amount (in Rs.) | Delete |
|----|---------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|--------|
| *1 |                                                                                 |                                                                                                         |                                                                                                                                        | ▼                                                                                                      |                                                                                                        | ▼                                                                                                      |                                                                                                        |        |

### Clause 30C

30 C(a) Whether the assessee has entered into an impermissible avoidance arrangement, as referred to in section 96, during the previous year. (This clause is kept in abeyance till 31st March, 2022)

Select ▼



C(b) If yes, please furnish the following details

|    | Nature of the impermissible avoidance arrangement | Others | Amount (in Rs.) of tax benefit in the previous year arising, in aggregate, to all the parties to the arrangement | Delete |
|----|---------------------------------------------------|--------|------------------------------------------------------------------------------------------------------------------|--------|
| *1 | ▼                                                 |        |                                                                                                                  |        |

## Sec. 269SS / 269ST / 269T – Loans, Deposits & Cash Receipts

### Exact Wording – Form No. 3CD

#### Clause 31(a) & (b)

*“Particulars of each loan/deposit and each specified sum exceeding the limit in section 269SS taken or accepted during the year – name, address & PAN/Aadhaar of the lender/depositor; amount and code for nature of the amount; whether squared up; maximum amount outstanding; mode of receipt; whether by account payee cheque/draft.”*

#### Clause 31(ba)–(bd)

*“Particulars of each cash receipt/payment exceeding the limit in section 269ST, in aggregate from/to a person in a day, per transaction, or per event/occasion – name, address & PAN/Aadhaar; nature of transaction; amount; date.”*

#### Clause 31(c)–(e)

*“Particulars of each repayment of loan/deposit/specified advance exceeding the limit in section 269T – name, address & PAN/Aadhaar of the payee; amount and code for nature of the amount; maximum amount outstanding; mode of repayment; whether by account payee cheque/draft.”*

*Source: Form No. 3CD [Rule 6G(2)], Income-tax Rules, 1962 (as amended)*

## Sec. 269SS / 269ST / 269T – Loans, Deposits & Cash Receipts

| Particulars               | Section 269SS<br>ACCEPTING                                                | Section 269T<br>REPAYING                                                                       | Section 269ST<br>RECEIVING                                                                                                                    |
|---------------------------|---------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| What is restricted?       | Accepting loan, deposit or specified sum                                  | Repayment of loan, deposit or specified advance                                                | Receiving ₹2,00,000 or more in cash OR prohibited mode – General Transactions                                                                 |
| Threshold                 | ₹20,000 or more                                                           | ₹20,000 or more                                                                                | ₹2,00,000 or more                                                                                                                             |
| How threshold is checked? | From a person, considering existing unpaid loan, deposit or specified sum | To a person, considering existing unpaid loan, deposit or specified advance including interest | (i) From a person in a day; or<br>(ii) for a single transaction; or<br>(iii) for transactions relating to one event or occasion from a person |
| Covers                    | Loan, deposit & specified sum                                             | Loan, deposit & specified advance                                                              | Generally any receipt, subject to exclusions                                                                                                  |
| Specified sum / advance   | Advance or other amount relating to transfer of immovable property        | Advance relating to transfer of immovable property                                             | Not applicable as a separate category                                                                                                         |
| Example                   | A accepts ₹25,000 cash loan from B → 269SS                                | A repays ₹25,000 cash loan to B → 269T                                                         | A receives ₹2,50,000 cash sale consideration from B → 269ST                                                                                   |
| Penalty                   | Section 271D – 100% of amount accepted                                    | Section 271E – 100% of amount repaid                                                           | Section 271DA – 100% of amount received                                                                                                       |
| Reasonable Cause          | Relief possible under Section 273B                                        | Relief possible under Section 273B                                                             | Relief possible under Section 273B                                                                                                            |
| Key exclusion             | Specified persons/transactions covered by the section are excluded        | Specified persons/transactions covered by the section are excluded                             | Does not apply to transactions of the nature referred to in Section 269SS                                                                     |

## Sec. 269SS / 269ST / 269T – Loans, Deposits & Cash Receipts

| Case law                                                                                   | Provision | Principle / relevance                                                                                                                                                                                                                                                                                     |
|--------------------------------------------------------------------------------------------|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Asstt. Director of Inspection (Investigation) v. Kum. A.B. Shanthi</b> 255 ITR 258 (SC) | 269SS     | Landmark Supreme Court decision. The constitutional validity of section 269SS was upheld. The Court explained that the provision is intended to prevent the use of cash loans/deposits to explain unaccounted money. It also recognised the importance of reasonable-cause protection under section 273B. |
| <b>CIT v. Speedways Rubber Pvt. Ltd.</b> 326 ITR 31 (P&H)                                  | 269SS     | Where the transaction was genuine/bona fide and the circumstances showed a technical/default nature, reasonable-cause principles can be relevant in deciding penalty. The case is subsequently referred to in judicial decisions dealing with 269SS.                                                      |
| <b>CIT v. Bhagwati Prasad Bajoria</b> 263 ITR 487 (Gau.)                                   | 269SS     | Considered the bona fide nature of the transaction and whether the transaction was entered into to evade tax; relevant for the reasonable-cause / genuineness principle.                                                                                                                                  |
| <b>Dhanji R. Zalte v. ACIT</b>                                                             | 269T      | The Bombay High Court matter concerned repayment and section 269T; the reported decision notes that penalty under section 271E was deleted where the Tribunal found that the repayments were loans rather than deposits, relevant to the scope of section 269T.                                           |
| <b>Delta Farm Services v. ITO</b> (ITAT, 2025)                                             | 269ST     | The Tribunal considered section 269ST and reasonable/sufficient cause in the context of cash receipts from farmers; it also discussed the object of the provision as counteracting tax evasion.                                                                                                           |

### *Tax Audit angle*

*For a tax auditor, these provisions are particularly relevant while checking:*

***Cash Book → Loans & Advances → Unsecured Loans → Deposits → Capital/Partner transactions → Property advances → Major cash receipts → Repayments***

*The Income-tax Department's forms/utilities specifically provide schedules for 269SS, 269ST and 269T, demonstrating their relevance in tax-compliance reporting*

# Sec. 269SS / 269ST / 269T – Loans, Deposits & Cash Receipts

## Background – Since When?

Sec. 269SS & 269T have been in force since the Finance Act, 1984 (w.e.f. 1-4-1984). Sec. 269ST was inserted by the Finance Act, 2017 (w.e.f. 1-4-2017), post-demonetisation. Clause 31(ba)–(bd) for 269ST reporting was added via the IT (Eighth Amdt.) Rules, 2018; the ‘nature of amount’ code (Note 1) was inserted by the IT (Eighth Amdt.) Rules, 2025, w.e.f. 1-4-2025.

## Relevance – Income-tax Act, 1961

- **Sec. 269SS** – Prohibits taking/accepting a loan, deposit or specified sum of ₹20,000 or more otherwise than by account payee cheque/draft or a prescribed electronic mode.
- **Sec. 269ST** – Prohibits receiving ₹2 lakh or more in cash from a person in a day, in respect of a single transaction, or in respect of transactions relating to one event/occasion.
- **Sec. 269T** – Prohibits repaying a loan, deposit or specified advance of ₹20,000 or more otherwise than by account payee cheque/draft or a prescribed electronic mode.
- **Sec. 271D/271DA/271E, 273B** – Prescribe penalty equal to the amount involved for contravening 269SS/269ST/269T, subject to the ‘reasonable cause’ exception in Sec. 273B.

## Sec. 269SS / 269ST / 269T – Loans, Deposits & Cash Receipts

### Standards on Auditing & Management Representation

- SA 500 – verify bank statements/loan confirmations
- SA 240 – fraud-risk considerations for cash dealings
- MRL confirming completeness of all cash loans/deposits/repayments

### Points to Check While Inserting Data

- Verify every loan/deposit  $\geq$  ₹20,000 taken/repaid otherwise than by account-payee mode
- Check the aggregate-outstanding-balance rule and relative/related-party exceptions
- Remember journal-entry (book) adjustments are also covered per settled case law

## Sec. 269SS / 269ST / 269T – Loans, Deposits & Cash Receipts

### Judicial Rulings

#### FAVOUR

'Cash accepted from a director/promoter to meet an urgent cheque-dishonour crisis; held 'reasonable cause' under Sec. 273B, so penalty u/s 271D not leviable despite technical violation. -Sri Renukeswara Rice Mills v. ITO, (2005) 93 ITD 263 (Bangalore-Trib.)

#### AGAINST

Cash loans between related concerns lacking commercial justification, and journal entries used to bypass Sec. 269SS, have been treated as contraventions (e.g., the reasoning in CIT v. Triumph International Finance (I) Ltd, Bombay HC, that book/journal entries fall within the mischief of Sec. 269SS).

#### PENDING

Scope of 'specified sum' for advances against property, and applicability of 269ST to instalment/EMI structures, remains contested before appellate forums.

### Cross-Reference – Income-tax Act, 2025

269SS → New Sec. 267; 269ST → New Sec. 268; 269T → New Sec. 269 (Ch. XII – Mode of Payment); penalty sections renumbered.

## CLAUSE 31 - INFORMATION TO BE FURNISHED

### Clause 31A

31 (a) Particulars of each loan or deposit in an amount exceeding the limit specified in section 269SS taken or accepted during the previous year :-



|    | Name of the lender or depositor | Address of the lender or depositor | Permanent Account Number (if available with the assessee) of the lender or depositor | Amount of loan or deposit taken or accepted | Whether the loan/deposit was squared up during the Previous Year | Maximum amount outstanding in the account at any time during the Previous Year | Whether then loan or deposit was taken or accepted by cheque or bank draft or use of electronic clearing system through a bank account | vii(a) Code of the nature of such amount (as mentioned in filed (iv) above | In case the loan or deposit was taken or accepted by cheque or bank draft, whether the same was taken or accepted by an account payee cheque or an account payee bank draft. | Aadhar Number (if available) | vii(b) please specify |
|----|---------------------------------|------------------------------------|--------------------------------------------------------------------------------------|---------------------------------------------|------------------------------------------------------------------|--------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|-----------------------|
| *1 |                                 |                                    |                                                                                      |                                             |                                                                  |                                                                                |                                                                                                                                        |                                                                            |                                                                                                                                                                              |                              |                       |

### Clause 31B

(b) Particulars of each specified sum in an amount exceeding the limit specified in section 269SS taken or accepted during the previous year:-



|    | Name of the person from whom specified sum is received | Address of the person from whom specified sum is received | Permanent Account Number (if available with the assessee) of the person from whom specified sum is received | Amount of specified sum taken or accepted | Whether the specified sum was taken or accepted by cheque or bank draft or use of electronic clearing system through a bank account | v(a) Code of the nature of such amount (as mentioned in field (iv) above | In case the specified sum was taken or accepted by cheque or bank draft, whether the same was taken or accepted by an account payee cheque or an account payee bank draft. | Aadhar Number (if available) | vii(b) please specify |
|----|--------------------------------------------------------|-----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|-------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|-----------------------|
| *1 |                                                        |                                                           |                                                                                                             |                                           |                                                                                                                                     |                                                                          |                                                                                                                                                                            |                              |                       |

## CLAUSE 31 – INFORMATION TO BE FURNISHED

### Clause 31C

(Particulars at (ba), (bb), (bc) and (bd) need not be given in the case of receipt by or payment to a Government company, a banking Company, a post office savings bank, a cooperative bank or in the case of transactions in section 269SS or in the case of persons referred to in Notification No. S.O. 2065(E) dated 3rd July, 2017)\*

(c) Particulars of each repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T made during the previous year



|    | Name of the payee | Address of the payee | Permanent Account Number (if available with the assessee) of the payee | Amount of the repayment | Maximum amount outstanding in the account at any time during the previous year | Whether the repayment was made by cheque or bank draft or use of electronic clearing system through a bank account. | vi(a) Code of the nature of such amount (as mentioned in field (iv) above | In case the repayment was made by cheque or bank draft, whether the same was repaid by an account payee cheque or an account payee bank draft. | Aadhar Number (if available) | vii(b) please specify |
|----|-------------------|----------------------|------------------------------------------------------------------------|-------------------------|--------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|-----------------------|
| *1 |                   |                      |                                                                        |                         |                                                                                |                                                                                                                     |                                                                           |                                                                                                                                                |                              |                       |

### Clause 31D

(d) Particulars of repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T received otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year



|    | Name of the payer | Address of the payer | Permanent Account Number (if available with the assessee) of the payer | Amount of repayment of loan or deposit or any specified advance received otherwise than by a cheque or Bank draft or use of electronic clearing system through a bank account during previous year | Aadhar Number (if available) |
|----|-------------------|----------------------|------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| *1 |                   |                      |                                                                        |                                                                                                                                                                                                    |                              |

## CLAUSE 31 – INFORMATION TO BE FURNISHED

### Clause 31E

( e ) Particulars of repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T received by a cheque or bank draft which is not an account payee cheque or account payee bank draft during the previous year



|     | Name of the payer | Address of the payer | Permanent Account Number (if available with the assessee) of the payer | Amount of repayment of loan or deposit or any specified advance received by a cheque or a bank draft which is not an account payee cheque or account payee bank draft during the previous year | Aadhar Number (if available) |
|-----|-------------------|----------------------|------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| * 1 |                   |                      |                                                                        |                                                                                                                                                                                                |                              |

# Brought-Forward Loss/Depreciation, Sec. 79, Sec. 73/73A, Sec. 115BBE

## Exact Wording – Form No. 3CD

### Clause 32(a)

*“Details of brought forward loss or depreciation allowance, to the extent available – serial number, assessment year, nature of loss/allowance, amount as returned, amount not allowed under section 115BAA/115BAC/115BAD/115BAE, amount adjusted by withdrawal of additional depreciation, amount as assessed, and remarks.”*

### Clause 32(b)

*“Whether a change in shareholding of the company has taken place in the previous year due to which losses incurred prior to the previous year cannot be carried forward in terms of section 79.”*

### Clause 32(c)–(e)

*“Whether the assessee has incurred any speculation loss (Sec. 73), any loss in a specified business (Sec. 73A), or is deemed to be carrying on a speculation business (Explanation to Sec. 73) during the previous year – if yes, furnish details.”*

*Source: Form No. 3CD [Rule 6G(2)], Income-tax Rules, 1962 (as amended)*

# Brought-Forward Loss/Depreciation, Sec. 79, Sec. 73/73A, Sec. 115BBE

## Background – Since When?

The core clause on unabsorbed loss/depreciation has been present since inception. The Sec. 115BBE column was added via the IT (Eighth Amdt.) Rules, 2018, following the steep flat-rate tax introduced by the Taxation Laws (2nd Amdt.) Act, 2016, post-demonetisation.

## Relevance – Income-tax Act, 1961

- **Sec. 72** – Allows carry forward and set-off of unabsorbed business loss against business income for up to 8 assessment years.
- **Sec. 73 / 73A** – Restrict speculation loss to set-off against speculation profits only (4-year carry forward), and specified-business loss (Sec. 35AD) to set-off against specified-business profits only.
- **Sec. 79** – Restricts carry forward of losses of a closely held company where beneficial shareholding changes by more than the prescribed threshold, subject to relaxations for eligible start-ups and companies under an approved IBC resolution plan.
- **Sec. 115BBE** – Levies a flat 60% tax (plus surcharge and cess) on income assessed under Sec. 68/69/69A/69B/69C/69D, with no expenditure, allowance or set-off permitted against such income.

# Brought-Forward Loss/Depreciation, Sec. 79, Sec. 73/73A, Sec. 115BBE

## Standards on Auditing & Management Representation

- SA 500 – verify brought forward figures against prior-year return or intimation
- MRL confirming no disqualifying change in shareholding and completeness of Sec. 68/69 additions, if any

## Points to Check While Inserting Data

- Reconcile brought-forward loss/depreciation with the prior-year ITR/CPC intimation
- Test the beneficial-ownership continuity threshold for Sec. 79, noting start-up and IBC-resolution relaxations
- Ensure Sec. 115BBE income is excluded from normal inter-head/inter-source set-off

## Clause 32 at glance

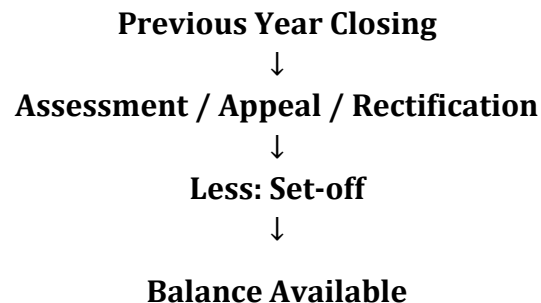
| Clause | Subject                 | Simple Question                      |
|--------|-------------------------|--------------------------------------|
| 32(a)  | B/F Loss & Depreciation | What old loss is available?          |
| 32(b)  | Change in Shareholding  | Can old loss be carried forward?     |
| 32(c)  | Speculation Loss        | Is there speculation loss?           |
| 32(d)  | Specified Business Loss | Is there specified-business loss?    |
| 32(e)  | Deemed Speculation      | Is share trading deemed speculation? |

**Key-Takeaway Clause 32 = IDENTIFY → RECONCILE → CHECK RESTRICTION → REPORT**

## Clause 32(a)- Brought forward loss or depreciation

Simple Question - “How much loss or depreciation from earlier years is still available?”

### LOSS RECONCILIATION



### Check:

- Previous year's ITR
- Previous Form 3CD
- Assessment orders
- Appeal / Rectification orders
- Current-year computation
- Current-year set-off

### key takeaway

**“DON'T COPY - RECONCILE.”**

### Important Note-

“Our objective is to arrive at the correct brought-forward balance after considering all subsequent events.”

| Particulars           | Business Loss          | Unabsorbed Depreciation      |
|-----------------------|------------------------|------------------------------|
| <b>Main provision</b> | Sec. 72                | Sec. 32(2)                   |
| <b>Nature</b>         | Business loss          | Depreciation not absorbed    |
| <b>Tracking</b>       | Separately             | Separately                   |
| <b>Treatment</b>      | As per Sec. 72         | As per Sec. 32(2)            |
| <b>Audit focus</b>    | AY-wise reconciliation | Separate depreciation record |

**Business Loss and Unabsorbed Depreciation are NOT the same thing.** Do not simply combine both balances into one figure.

## Clause 32(a)- Maximum period of carry forward of losses

| Section | Nature of loss to be carried forward                                                                                                                             | Income against which brought-forward loss can be set-off                                                               | Maximum period for carry forward |
|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| 32(2)   | Unabsorbed depreciation                                                                                                                                          | Income under any head other than Salaries                                                                              | Indefinite period                |
| 71B     | Unabsorbed loss from house property                                                                                                                              | Income from house property                                                                                             | 8 assessment years               |
| 72      | Unabsorbed business loss                                                                                                                                         | Profits and gains from business or profession                                                                          | 8 assessment years               |
| 73      | Loss from speculation business                                                                                                                                   | Income from any speculation business                                                                                   | 4 assessment years               |
| 73A     | Loss from specified business under Section 35AD, in case of an assessee exercising the option of shifting out of the default tax regime under Section 115BAC(1A) | Profit from any specified business, irrespective of whether such business is eligible for deduction under Section 35AD | Indefinite period                |
| 74      | Long-term capital loss                                                                                                                                           | Long-term capital gains                                                                                                | 8 assessment years               |
| 74      | Short-term capital loss                                                                                                                                          | Short-term / Long-term capital gains                                                                                   | 8 assessment years               |
| 74A     | Loss from the activity of owning and maintaining race horses                                                                                                     | Income from the activity of owning and maintaining race horses                                                         | 4 assessment years               |

**Note:** As per Section 80, filing of the loss return under Section 139(3) within the prescribed due date under Section 139(1) is mandatory for carry forward of the above losses, **except loss from house property and unabsorbed depreciation.**

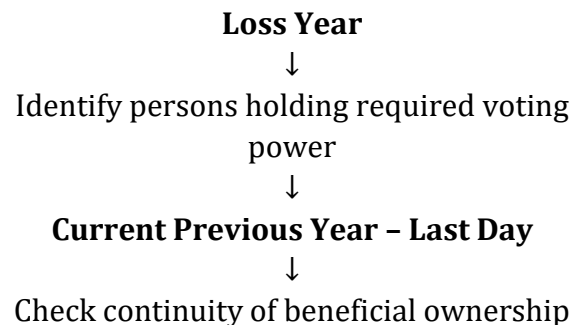
## CLAUSE 32 (a) - CASE LAWS

| Case Law                                                              | Principle / Ratio                                                                                                                                                                                                            | Relevance to Clause 32(a)                              |
|-----------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|
| <b>CIT v. Concord Industries Ltd. (1979)</b><br>119 ITR 458 (Mad.)    | Section 79 restricts carry-forward of business losses where there is a substantial change in shareholding of a closely held company. The provision is intended to prevent purchase of loss-making companies for tax benefit. | <b>Important for Section 79 reporting</b>              |
| <b>CIT v. Shri Subhlaxmi Mills Ltd. (2001)</b><br>249 ITR 795 (SC)    | Section 79 applies to <b>business losses</b> ; unabsorbed depreciation is governed separately and is not treated as business loss for this purpose. This distinction has been relied upon in subsequent decisions.           | <b>Very important – business loss vs. depreciation</b> |
| <b>ITO v. Edelweiss Commodities Services Ltd. (ITAT Mumbai, 2018)</b> | Section 79 applies to a closely held company where there is a change in shareholding exceeding the prescribed threshold; status of the company at the time of change is relevant.                                            | <b>Useful for Section 79</b>                           |

## Clause 32(b)- Change in shareholding – section 79

Simple Question - “Has the change in ownership affected the company's ability to carry forward earlier losses?”

### BASIC 51% TEST



### Check

- Whether Section 79 applies
- Beneficial ownership
- 51% voting-power test
- Date of change
- Statutory exceptions

### key takeaway

**“CHANGE IN SHAREHOLDING = CHECK SECTION 79.”**

### Important Note-

“We should not conclude merely because shareholding has changed. We have to perform the statutory test and examine the applicable exceptions.”

## Case Laws

| Sr. No. | Case Law                                                             | Key Principle                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|---------|----------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1       | CIT v. Italindia Cotton Co. (P.) Ltd., (1988) 174 ITR 160 (SC)       | Conditions in clauses (a) and (b) of Section 79 operate in the alternative, not cumulatively; Section 79 is attracted only where a change in shareholding results in a change in control of the company, not every change of shareholding. The assessee failed to show any agreement/arrangement making the holding company the beneficial owner of the relevant shares — reinforcing that "beneficially held" voting power, not mere legal ownership, is the touchstone for Section 79. |
| 2       | Yum Restaurants (India) (P.) Ltd. v. ITO, (2016) 380 ITR 637 (Delhi) |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

# Clause 32(c)- Speculation loss – section 73

Simple Question - What is a Speculative Transaction?

Sec 43(5) A transaction settled otherwise than by actual delivery or transfer may be a **speculative transaction**, subject to the statutory exceptions.

**Eg. - Buy shares → No delivery → Settlement of price difference**

Speculative Business –

**Speculative business is business consisting of transactions which fall within the concept of speculative transactions, subject to the statutory provisions and exceptions**

**key takeaway**

**“NO DELIVERY = GENERALLY SPECULATION — BUT ALWAYS CHECK SECTION 43(5) EXCEPTIONS.”**

**Important Note-**

“No delivery does not always mean speculation — Section 43(5) exceptions must be examined.”

Section 43(5) contains important exceptions.

## What happen to speculative loss

**Basic Rule**

**Speculation Loss → Set-off against Speculation Profit**

and Carry forward subject to Section 73.

## speculative transaction vs speculative business

| Speculative Transaction                  | Speculative Business                             |
|------------------------------------------|--------------------------------------------------|
| Transaction-level concept                | Business-level concept                           |
| Section 43(5)                            | Relevant for Section 73                          |
| Asks: “Is this transaction speculative?” | Asks: “How is the speculation activity treated?” |
| Example: Intraday transaction            | Regular intraday trading activity                |

## Clause 32(d)- Specified business loss – section 73a

### What is Specified Business?

**Specified Business means only those businesses specifically listed in Section 35AD(8)(c).**

It does **not** mean every special or capital-intensive business.

*“Specified Business = Business specifically listed in Section 35AD.”*

| Specified Business                | Example                              |
|-----------------------------------|--------------------------------------|
| Cold chain facility               | Cold storage / integrated cold chain |
| Agricultural warehousing          | Storage facility                     |
| Certain pipelines                 | Petroleum / gas pipelines            |
| Certain hotels                    | Eligible hotel business              |
| Certain hospitals                 | Eligible hospital business           |
| Certain housing projects          | Specified housing projects           |
| Fertiliser production             | Fertiliser manufacturing             |
| Certain infrastructure facilities | Eligible infrastructure business     |
| Bee-keeping                       | Honey & beeswax production           |

### 35AD Does not automatically mean 32(d)

Follow this sequence:

Identify Business



Does it fall under Section 35AD?



Is there a loss from that specified business?



Does Section 73A apply?



Clause 32(d)

## Clause 32(e)- Deemed Speculation

**Why is this important** - Certain companies dealing in **purchase and sale of shares** may be treated as carrying on speculation business under the Explanation to Section 73, subject to the statutory conditions and exclusions.

Share Trading



Explanation to Sec. 73



Check Principal Business / Exclusions



Determine Treatment

Check

- Nature of company
- Nature of share trading
- Principal business
- Statutory exclusions
- Relevant financial records

**key takeaway**

**“DELIVERY-BASED SHARE TRADING DOES NOT AUTOMATICALLY END THE SECTION 73 ANALYSIS.”**

### Distinction - 32(c) vs 32(e)

|                       | 32(c)                         | 32(e)                                 |
|-----------------------|-------------------------------|---------------------------------------|
| <b>Concept</b>        | Speculation Loss              | Deemed Speculation Business           |
| <b>Provision</b>      | Sec. 73                       | Explanation to Sec. 73                |
| <b>Focus</b>          | Loss                          | Nature of business                    |
| <b>Question</b>       | “Do I have speculation loss?” | “Is the business deemed speculation?” |
| <b>Starting Point</b> | Speculative transaction       | Company + share trading               |

## CLAUSE 32 - CASE LAWS

| Clause 32 | Provision                                      | Case law to use                                                          | Position                                                                                                                                                                                                      |
|-----------|------------------------------------------------|--------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 32(a)     | Brought-forward loss / unabsorbed depreciation | <b>General Motors India (P.) Ltd. v. DCIT, (2013) 354 ITR 244 (Guj.)</b> | Held that, post the Finance Act, 2001 amendment to Sec. 32(2), unabsorbed depreciation can be carried forward and set off without any time limit, akin to current depreciation.                               |
| 32(b)     | Section 79                                     | <b>CIT v. Italindia Cotton Co. (P.) Ltd., 174 ITR 160 (SC)</b>           | Confirmed and strong authority. Supreme Court held that the conditions in section 79(a) and (b), as applicable in that case, operated alternatively, not cumulatively.                                        |
| 32(c)     | Section 73 – speculation loss                  | <b>CIT v. DLF Commercial Developers Ltd., 261 CTR 127 (Delhi HC)</b>     | Relevant on the Explanation to Section 73 in the context of derivative/share-trading transactions treated as speculation business.                                                                            |
| 32(d)     | Section 73A – specified business loss          | <b>Apply the statutory test u/s 35AD(8)(c)</b>                           | Eligibility for Sec. 73A depends on the business first qualifying as "specified business" under Sec. 35AD(8)(c) — verify facts and the applicable assessment year before applying any ITAT precedent.         |
| 32(e)     | Explanation to Sec. 73 – Deemed Speculation    | <b>SRJ Securities Ltd. v. ACIT</b>                                       | Explanation to Section 73 can deem certain share-trading activity of a company as speculation business, subject to statutory exceptions (e.g., principal business of banking or granting loans and advances). |
| 32(e)     | Explanation to Sec. 73 – Deemed Speculation    | <b>See Clause 32(c) vs 32(e) distinction (Slide 48)</b>                  | Determination turns on the company's principal business and the statutory exclusions, not on the mode of settlement of the transaction alone.                                                                 |

# Brought-Forward Loss/Depreciation, Sec. 79, Sec. 73/73A, Sec. 115BBE

## Judicial Rulings

### FAVOUR

Sec. 79 held inapplicable where the change in shareholding did not arise from a 'transfer' – e.g. amalgamation of the holding company or a buy-back – in several High Court rulings interpreting the section's scope.

### AGAINST

Set-off of business loss against Sec. 68/69 additions has been consistently denied by Tribunals applying the post-1-4-2017 Sec. 115BBE bar.

### PENDING

Retrospective application of the 2016 amendment restricting set-off for years prior to AY 2017-18 continues to be litigated before High Courts.

## Cross-Reference – Income-tax Act, 2025

Sec. 72→New Sec. 112; Sec. 73→113; Sec. 73A→114; Sec. 79→119 (Ch. VII); Sec. 32(2) folded into New Sec. 33; Sec. 115BBE renumbered under the special-rates provisions.

## CLAUSE 32 - INFORMATION TO BE FURNISHED

### Clause 32

| 32 (a) |                 | Details of brought forward loss or depreciation allowance, in the following manner, to the extent available |                                                                                                    |                                                                             |                                                                                                                                                                                                                |                    | <a href="#">Copy Row</a> |            | <input type="checkbox"/> Copy Last Year Data | <input type="checkbox"/> Reload Data |  |
|--------|-----------------|-------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|--------------------------|------------|----------------------------------------------|--------------------------------------|-------------------------------------------------------------------------------------|
|        | Assessment Year | Nature of loss/allowance                                                                                    | Amount as returned (if the assessed depreciation is less and no appeal pending then take assessed) | All losses/allowances not allowed under section 115BAA/115BAC/115BAD/115BAE | Amount as adjusted by withdrawal of additional depreciation on account of opting for taxation under section 115BAC/115BAD/115BAE (To be filled in for assessment year 2021-22 and 2024-25 only, as applicable) | Amount as assessed | Order U/S                | Order Date | Remark                                       |                                      |                                                                                     |
| *1     |                 |                                                                                                             |                                                                                                    |                                                                             |                                                                                                                                                                                                                |                    |                          |            |                                              |                                      |                                                                                     |

## Chapter VI-A Deductions & Sec. 10A/10AA

### Exact Wording – Form No. 3CD

#### Clause 33

*“Section-wise details of deductions, if any, admissible under Chapter VIA or Chapter III (Section 10A, Section 10AA) – Section under which deduction is claimed; Amounts admissible as per the provisions of the Income-tax Act, 1961 and fulfilling the conditions specified under the relevant provisions of the Act, the Rules, or any other guidelines/circular issued in this behalf.”*

*Source: Form No. 3CD [Rule 6G(2)], Income-tax Rules, 1962 (as amended)*

## Chapter VI-A Deductions & Sec. 10A/10AA

### Background – Since When?

Present since inception; periodically updated with the sunset of Sec. 80-IA/80-IB for new units, the SEZ (10A/10AA) sunset from AY 2021-22, and the restriction of Chapter VI-A deductions under the concessional regimes (Sec. 115BAA/115BAB) from AY 2020-21.

### Relevance – Income-tax Act, 1961

- **Chapter VI-A (Sec. 80-IA to 80U)** – A group of deductions from gross total income for specified categories of income/investment (infrastructure, SEZ development, employment generation, savings, disability, etc.), each with its own eligibility conditions.
- **Sec. 10A / 10AA** – Provide a profit-linked exemption/deduction for eligible units in Free Trade Zones/SEZs, phased out for units commencing operations after the prescribed sunset date.
- **Sec. 115BAA / 115BAB** – Offer concessional corporate tax rates (22%/15%) subject to the company forgoing specified exemptions and Chapter VI-A deductions (other than Sec. 80JJAA / 80M).

# Chapter VI-A Deductions & Sec. 10A/10AA

## Clause 33 – Deduction Admissible

**What does Clause 33 require?**

Details of deductions **admissible** under Chapter VI-A and Chapter III, section-wise.

**CA's role:**

Clause 33 is **not a copy-paste disclosure** of deductions claimed in the ITR. The auditor should examine whether the deduction is **actually admissible** under the relevant provision and its conditions.

### Key verification areas

| Check                 | What the CA should verify                      |
|-----------------------|------------------------------------------------|
| <b>Section</b>        | Exact section under which deduction is claimed |
| <b>Eligibility</b>    | Assessee & income/business qualify             |
| <b>Conditions</b>     | Compliance with statutory conditions           |
| <b>Quantum</b>        | Recompute eligible amount & limits             |
| <b>Documents</b>      | Certificates, approvals, payment proofs, etc.  |
| <b>Timing</b>         | Prescribed payment/investment period           |
| <b>Tax Regime</b>     | Deduction available under applicable regime    |
| <b>Reconciliation</b> | Clause 33 ↔ Computation ↔ ITR                  |

**CA Formula: SECTION → ELIGIBILITY → CONDITIONS → COMPUTATION → RECONCILIATION**

## Chapter VI-A Deductions & Sec. 10A/10AA

### Standards on Auditing & Management Representation

- SA 500 – evidence for eligibility (Form 10CCB, Form 56F)
- MRL confirming no double-claim of deduction and the regime opted (Form 10-IC/10-ID) is correctly reflected

### Points to Check While Inserting Data

- Verify Form 10CCB/56F is filed within the prescribed due date
- Confirm the eligible-unit profit is computed stand-alone, without notional set-off of another unit's loss (Sec. 80-IA(5))
- Cross-check the regime opted (old vs. 115BAA/115BAB) against the audit report

## Chapter VI-A Deductions & Sec. 10A/10AA

### Judicial Rulings

#### FAVOUR

Transport, power and interest subsidies held to have a 'first degree' nexus with manufacturing activity — eligible for Sec. 80-IB/80-IC deduction, the contrary taxpayer-favourable line on nexus. - CIT v. Meghalaya Steels Ltd., (2016) 383 ITR 217 (SC)

#### AGAINST

Deduction has been denied where Form 10CCB/56F was not furnished within time and no condonation was sought or granted.

#### PENDING

Interplay between transfer-pricing adjustments and the quantum of Chapter VI-A/10AA deduction for an eligible unit remains actively litigated.

### Cross-Reference – Income-tax Act, 2025

Chapter VI-A → New Chapter VIII, 'Deductions in Computing Total Income' (Sec. 122–154); Sec. 10AA → New Sec. 144.

## CLAUSE 33 – INFORMATION TO BE FURNISHED

### Clause 33

|                             |                                                                                                                     |                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                             |
|-----------------------------|---------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 33                          | Section-wise details of deductions, if any admissible under Chapter VIA or Chapter III (Section 10A, Section 10AA). | Select                                                                                                                                                                          |    |
| <input type="checkbox"/> Re |                                                                                                                     |                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                             |
|                             | Section under which deduction is claimed *                                                                          | Amounts admissible as per the provision of the Income-tax Act, 1961 and fulfils the conditions, if any, specified under the relevant provisions of Income-tax Act, 1961 or Income-tax Rules, 1962 or any other guidelines, circular, etc, issued in this behalf. * |                                                                                                                                                                                                                                                             |
| #1                          |                                    |                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                             |

# TDS / TCS Compliance

## Exact Wording – Form No. 3CD

### Clause 34(a)

*“Whether the assessee is required to deduct or collect tax as per the provisions of Chapter XVII-B or Chapter XVII-BB – if yes, furnish TAN, section, nature of payment/receipt, total amount of payment/receipt, amount on which tax was/was required to be deducted or collected, amount of tax deducted/collected, and amount deposited to the credit of the Central Government.”*

### Clause 34(b)

*“Whether the assessee is required to furnish a statement of tax deducted or tax collected – if yes, furnish TAN, type of form, due date for furnishing, date of furnishing, and whether the statement contains information about all reportable details/transactions.”*

### Clause 34(c)

*“Whether the assessee is liable to pay interest under section 201(1A) or section 206C(7) – if yes, furnish TAN, amount of interest payable, and amount paid with date of payment.”*

*Source: Form No. 3CD [Rule 6G(2)], Income-tax Rules, 1962 (as amended)*

# TDS / TCS Compliance – Three-Level Reporting Framework

## 34(a) – Deduction / Collection

Whether TDS/TCS applicable?  
 Identify applicable section  
 Verify amount liable  
 Verify TDS/TCS actually deducted  
 Verify correct rate  
 Verify deposit to Government

## 34(b) – Return Filing

Whether TDS/TCS statement required?  
 Check quarterly returns  
 Check due date  
 Check actual filing date  
 Verify completeness of return  
 Reconcile with books

## 34(c) – Interest

Whether interest payable?  
 Check Sec. 201(1A)  
 Check Sec. 206C(7)  
 Calculate interest  
 Verify payment  
 Report unpaid interest

## AUDIT CHECKLIST

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                       |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• Identify all TDS/TCS applicable sections</li> <li>• Review expense ledgers and payment transactions</li> <li>• Verify threshold limits</li> <li>• Verify applicable rate</li> <li>• Check PAN / lower deduction certificates wherever applicable</li> <li>• Reconcile TDS payable ledger with returns</li> <li>• Verify TDS/TCS challans</li> <li>• Identify tax deducted but not deposited</li> <li>• Check lower / non-deduction cases</li> </ul> | <ul style="list-style-type: none"> <li>• Obtain quarterly TDS/TCS returns</li> <li>• Verify due date</li> <li>• Verify actual filing date<br/>Check late filing</li> <li>• Reconcile books with TDS return</li> <li>• Verify all deductees/transactions are included</li> <li>• Check corrections / revised returns</li> <li>• Verify Form 26AS / TRACES data wherever relevant</li> </ul> | <ul style="list-style-type: none"> <li>• Date on which tax was required to be deducted/collected</li> <li>• Actual date of deduction/collection</li> <li>• Due date of payment</li> <li>• Actual payment date</li> <li>• Interest calculation</li> <li>• Interest paid / outstanding</li> </ul> <p><b>Clause 34(c) specifically captures interest payable under sections 201(1A) and 206C(7).</b></p> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## Practical Example

**Professional fees paid:** ₹10,00,000  
**TDS required:** ₹1,00,000

**34(a)** → Was ₹1,00,000 correctly deducted?

**34(b)** → Was the quarterly TDS statement correctly filed?

**34(c)** → Was there any delay resulting in interest?

## FINAL CA OFFICE CHECKLIST

- 34(a)**-TDS/TCS applicability checked?
- 34(a)**-Books reconciled with TDS/TCS records?
- 34(a)**-Tax deducted/collected and deposited verified?
- 34(b)**-All quarterly statements obtained?
- 34(b)**-Due date vs actual filing date checked?
- 34(b)**-Return completeness/reconciliation checked?
- 34(c)**-Interest independently verified?
- 34(c)**-Outstanding interest identified?
- Final**-Clause 34 figures agree with working papers?

## AUDIT TRAIL FOR CLAUSE - 34

1. General Ledger Review  
↓
2. Identify TDS/TCS Transactions  
↓
3. Section + Threshold + Rate Check  
↓
4. TDS/TCS Ledger Reconciliation  
↓
5. Quarterly Return Reconciliation  
↓
6. Challan Verification  
↓
7. Interest Computation  
↓
8. Clause 34 Reporting

Once the deductee has already included the sum in its return and paid tax thereon, the payer cannot be treated as ‘assessee in default’ for short-deduction, mitigating consequential disallowance- ***Hindustan Coca-Cola Beverage (P.) Ltd. v. CIT, (2007) 293 ITR 226 (SC)***

*“Clause 34 is not merely a TDS reporting clause — it is a three-stage compliance test covering Deduction/Collection, Statement Filing and Interest.”*

# TDS / TCS Compliance

## Background – Since When?

Substantially expanded via the IT (Eighth Amdt.) Rules, 2018 (20-Aug-2018) into detailed tables – 34(a) tax deducted/collected & deposited, 34(b) statements filed (further revised by the same 2018 amendment), 34(c) interest u/s 201(1A)/206C(7).

## Relevance – Income-tax Act, 1961

- **Chapter XVII-B (Sec. 192–206)** – Casts an obligation to deduct tax at source on specified payments (salary, contractor payments, professional fees, rent, interest, etc.) at prescribed rates and timelines.
- **Chapter XVII-BB (Sec. 206C)** – Casts an obligation to collect tax at source on specified receipts/sale of goods (e.g., scrap, minerals, motor vehicles, overseas remittances, sale of goods above threshold).
- **Sec. 40(a)(ia)** – Disallows 30% of expenditure where applicable TDS was not deducted, or deducted but not deposited by the due date u/s 139(1).
- **Sec. 201(1)/(1A)** – Deems a person who fails to deduct/deposit TDS to be an ‘assessee in default’ and levies interest at 1%/1.5% per month for the default period.
- **Sec. 206AB/206CCA** – Prescribe TDS/TCS at a higher rate for payments to/receipts from ‘specified persons’ who have not filed their income-tax returns for the relevant preceding years.

## TDS / TCS Compliance

### Standards on Auditing & Management Representation

- SA 250 – compliance with laws & regulations
- SA 500 – reconcile TDS/TCS returns with Form 26AS/AIS/TRACES
- MRL confirming completeness including year-end provisions

### Points to Check While Inserting Data

- Reconcile clause 34 figures with quarterly TDS/TCS returns and 26AS/TRACES
- Verify TDS on year-end provisions and reimbursements
- Check higher-rate deduction/collection u/s 206AB/206CCA for specified non-filers, and interest u/s 201(1A)/206C(7)

## TDS / TCS Compliance

### Judicial Rulings

#### FAVOUR

Disallowance u/s 40(a)(ia) held inapplicable where the payee has already paid tax on the income – second proviso, read with the principle in Hindustan Coca-Cola Beverages (P.) Ltd v. CIT (2007) 293 ITR 226 (SC).

#### AGAINST

Short deduction on account of an incorrect TDS section has attracted disallowance/demand where bona fide belief was not substantiated with supporting documentation.

#### PENDING

Overlap and sequencing between Sec. 206AB/206CCA and Sec. 194Q/206C(1H) continues to generate litigation on the applicable rate/section.

### Cross-Reference – Income-tax Act, 2025

TDS/TCS chapters consolidated into New Sec. 393 and the 'Collection & Recovery of Tax' chapter; Sec. 40(a)(ia) folded into the New Sec. 36 group.

## CLAUSE 34 - INFORMATION TO BE FURNISHED

### Clause 34A

34 (a) Whether the assessee is required to deduct or collect tax as per the provisions of Chapter XVII-B or Chapter XVII-BB, if yes please furnish

Select    ☐ Reload

|    | Tax deduction and collection Account Number (TAN) * | Section * | Nature of payment | Total amount of payment or receipt of the nature specified in column(3) (4) * | Total amount on which tax was required to be deducted or collected out of (4) * | Total amount on which tax was deducted or collected at specified rate out of (5) * | Amount of tax deducted or collected out of (6) * | Total amount on which tax was deducted or collected at less than specified rate out of (7) * | Amount of tax deducted or collected on (8) * | Amount of tax deducted or collected not deposited to the credit of the Central Government out of (6) and (8) (10) * |
|----|-----------------------------------------------------|-----------|-------------------|-------------------------------------------------------------------------------|---------------------------------------------------------------------------------|------------------------------------------------------------------------------------|--------------------------------------------------|----------------------------------------------------------------------------------------------|----------------------------------------------|---------------------------------------------------------------------------------------------------------------------|
| *1 |                                                     |           |                   |                                                                               |                                                                                 |                                                                                    |                                                  |                                                                                              |                                              |                                                                                                                     |

### Clause 34B

34 (b) Whether the assessee is required to furnish the statement of tax deducted or tax collected, if yes, please furnish the details :

Select    ☐ Reload

|    | Tax deduction and collection Account Number (TAN) * | Type of Form * | Due date for furnishing * (dd/MM/yyyy) | Date of furnishing, if furnished * (dd/MM/yyyy) | Whether the statement of tax deducted or collected contains information about all details/transactions which are required to be reported * | If not, please furnish list of details/transactions which are not reported. |
|----|-----------------------------------------------------|----------------|----------------------------------------|-------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| *1 |                                                     |                |                                        |                                                 |                                                                                                                                            |                                                                             |

### Clause 34C

34 (c) Whether the assessee is liable to pay interest under section 201(1A) or section 206C(7). If yes, please furnish:

Select    ☐ Reload Data

|    | Tax deduction and collection Account Number (TAN) * | Amount of interest under section 201(1A)/206C(7) is payable * | Amount paid out of column (2) * | Date of Payment * (dd/MM/yyyy) |
|----|-----------------------------------------------------|---------------------------------------------------------------|---------------------------------|--------------------------------|
| *1 |                                                     |                                                               |                                 |                                |

# Quantitative Details of Stock (Raw Material, Finished Goods, By-Products)

## Exact Wording – Form No. 3CD

### Clause 35(a)

*“In the case of a trading concern, give quantitative details of principal items of goods traded: opening stock; purchases during the previous year; sales during the previous year; closing stock; shortage/excess, if any.”*

### Clause 35(b)

*“In the case of a manufacturing concern, give quantitative details of the principal items of raw materials, finished products and by-products: (A) Raw Materials – opening stock, purchases, consumption, sales, closing stock, yield of finished products, percentage of yield, shortage/excess; (B) Finished products/by-products – opening stock, purchases, quantity manufactured, sales, closing stock, shortage/excess.”*

*Source: Form No. 3CD [Rule 6G(2)], Income-tax Rules, 1962 (as amended)*

# Quantitative Details of Stock (Raw Material, Finished Goods, By-Products)

## Standards on Auditing & Management Representation

- SA 501 – inventory existence/observation where material
- SA 500 – evidence for quantitative reconciliation
- MRL confirming quantitative records are complete and reconciled with GST returns

## Points to Check While Inserting Data

- Reconcile quantitative data with production/stores records and GSTR-9/9C
- Disclose % yield/shortage with reasons for any abnormal variance
- Confirm applicability correctly determined for trading vs. manufacturing vs. service segments

# Quantitative Details of Stock (Raw Material, Finished Goods, By-Products)

## Judicial Rulings

### FAVOUR

Absence of a formal stock register alone held insufficient to reject books of account where other corroborative evidence exists and results are not abnormal.

### AGAINST

Significant unexplained shortage/yield variance flowing from clause 35 data has been used to sustain trading additions/best-judgment assessments.

### PENDING

Applicability of clause 35 to composite trading-cum-service and works-contract businesses continues to see conflicting Tribunal views.

## Cross-Reference – Income-tax Act, 2025

Sec. 145/145A retained under the 'Profits & Gains of Business' chapter (Sec. 26–66 block), renumbered; Sec. 44AB → New Sec. 63.

# Quantitative Details of Trading & Manufacturing Concerns

## Clause 35(a)- Trading Concern – Quantitative Details

If the assessee is carrying on a **trading business**, the tax auditor has to report quantitative details of the **principal items of goods traded**

The prescribed information broadly covers:

| Particulars       | Meaning                               |
|-------------------|---------------------------------------|
| Item Name         | Name of goods                         |
| Unit              | Kg., Nos., Litres, MT etc.            |
| Opening Stock     | Quantity available at beginning of FY |
| Purchases         | Quantity purchased during FY          |
| Sales             | Quantity sold during FY               |
| Closing Stock     | Quantity remaining at year-end        |
| Shortage / Excess | Difference, if any                    |

Clause 35(a) requires quantitative details of the **\*principal items** of goods traded.

*\*The Guidance Note discusses **principal items** in terms of items constituting more than 10% of the aggregate value of purchases, consumption or turnover, as applicable.*

## Clause 35(b)- Manufacturing Concern – Quantitative Details

Clause 35(b) applies to a **manufacturing concern** and is more detailed than Clause 35(a). The auditor has to report quantitative details of **raw materials**, including opening stock, purchases, consumption, sales, where applicable, closing stock, yield/percentage of yield, and shortage or excess, where applicable. For **finished products**, the auditor has to report opening stock, purchases, if any, quantity manufactured, sales, closing stock, and shortage or excess. In respect of **by-products**, the auditor has to report the relevant quantitative details.

### Production Formula

**Opening Raw Material + Purchases – Closing Raw Material = Consumption**

## Audit checklist including reconciliation

### Clause 35(a)- Trading

- Confirm whether assessee is a trading concern
- Obtain item-wise stock statement
- Identify principal items
- Verify opening stock with previous year's closing stock
- Reconcile purchases with purchase ledger
- Reconcile sales quantity with sales records
- Verify closing stock with inventory records
- Compare with physical stock verification
- Identify shortage/excess
- Obtain explanation for material differences
- Ensure units are consistent

### Clause 35(b)- Manufacturing

- Identify principal raw materials
- Identify principal finished products
- Identify by-products
- Verify opening stock
- Verify purchases
- Verify consumption
- Verify production quantity
- Verify sales
- Verify closing stock
- Calculate yield %
- Analyse process loss / wastage
- Reconcile physical stock
- Investigate unusual fluctuations

*Clause 35 is **not merely a disclosure of closing stock**. It provides the **quantitative movement of principal goods/materials during the year**. The CAG has specifically described Clause 35(a) as covering opening stock, purchases, sales, closing stock and shortage/excess, and Clause 35(b) as covering raw materials, finished goods/by-products, consumption/production, yield and related quantities*

## CLAUSE 35 – INFORMATION TO BE FURNISHED

### Clause 35

35 (a) In the case of a trading concern, give quantitative details of principal items of goods traded;

  ☐ Copy Last Year Data ☐ Re

|    | Item Name | Unit Name | Opening stock | Purchases during the previous year | Sales during the previous year | Closing stock | Shortage/ excess, if any |
|----|-----------|-----------|---------------|------------------------------------|--------------------------------|---------------|--------------------------|
| *1 |           |           |               |                                    |                                |               |                          |

35 (b) In the case of manufacturing concern, give quantitative details of the principal items of raw materials, finished products and by-products.

(A) Raw materials:

   ☐ Copy Last Year Data ☐ Reload Data

|    | Item Name | Unit | Opening stock | Purchases during the previous year | Consumption during the previous year | Sales during the previous year | Closing stock | Yield of finished products | Percentage of yield | Shortage/excess, if any |
|----|-----------|------|---------------|------------------------------------|--------------------------------------|--------------------------------|---------------|----------------------------|---------------------|-------------------------|
| *1 |           |      |               |                                    |                                      |                                |               |                            |                     |                         |

(B) Finished products :

   ☐ Copy Last Year Data ☐ Reload Data

|    | Item Name | Unit Name | Opening stock | Purchases during the previous year | Quantity manufactured during the previous year | Sales during the previous year | Closing stock | Shortage/excess, if any |
|----|-----------|-----------|---------------|------------------------------------|------------------------------------------------|--------------------------------|---------------|-------------------------|
| *1 |           |           |               |                                    |                                                |                                |               |                         |

## CLAUSE 35 – INFORMATION TO BE FURNISHED

### Clause 35

(B) Finished products :



☐ Copy Last Year Data ☐ Reload Data

|    | Item Name | Unit Name | Opening stock | Purchases during the pervious year | Quantity manufactured during the pervious year | Sales during the pervious year | Closing stock | Shortage/excess, if any |
|----|-----------|-----------|---------------|------------------------------------|------------------------------------------------|--------------------------------|---------------|-------------------------|
| *1 |           | ▼         |               |                                    |                                                |                                |               |                         |

(C) By-products :

☐ Copy Last Year Data

|    | Item Name | Unit Name | Opening stock | Purchases during the pervious year | Quantity manufactured during the pervious year | Sales during the pervious year | Closing stock | Shortage/excess, if any |
|----|-----------|-----------|---------------|------------------------------------|------------------------------------------------|--------------------------------|---------------|-------------------------|
| *1 |           | ▼         |               |                                    |                                                |                                |               |                         |

# Consolidated Cross-Reference – 1961 Act vs. 2025 Act

*Key sections underlying Clauses 27–35 — verify final numbering against the notified Rules, 2026*

| Clause            | Key 1961 Section(s)         | IT Act, 2025                            |
|-------------------|-----------------------------|-----------------------------------------|
| 27                | 145A                        | Valuation – Ch. IV-D (renumbered)       |
| 28 / 29 (omitted) | 56(2)(vii a)/(vii b)        | No direct equivalent – repeal & savings |
| 29A / 29B         | 56(2)(ix)/(x)               | New Sec. 92                             |
| 30 (+30A–30C)     | 69D / 92CE / 94B / 96–102   | New Sec. 106 / TP Ch. / GAAR Ch.        |
| 31                | 269SS / 269ST / 269T        | New Sec. 267 / 268 / 269                |
| 32                | 72 / 73 / 73A / 79 / 115BBE | New Sec. 112 / 113 / 114 / 119          |
| 33                | Ch. VI-A / 10AA             | New Ch. VIII (122–154) / Sec. 144       |
| 34                | Ch. XVII-B / XVII-BB        | New Sec. 393 & TDS/TCS chapter          |
| 35                | 145 / 145A / 44AB           | Renumbered – Ch. IV-D / New Sec. 63     |

# Key Takeaways for Tax Auditors

1

## Reconcile, don't assume

Every figure in clauses 27–35 should trace back to a primary record – GST returns, 3CEB, 26AS/TRACES, or the prior-year ITR.

2

## Document the MRL

A clause-specific Management Representation is as important as the number itself – especially for 269SS/ST/T, GAAR and Chapter VI-A eligibility.

3

## Track the litigation trend

Favourable precedents support a considered disclosure; adverse/pending trends call for a suitably worded observation or Form 3CA/3CB qualification.

4

## Prepare for the transition

Start mapping working papers to the Income-tax Act, 2025 section numbers now – the renumbering affects cross-references, not the substance of most provisions.

# Thank You

*Open House / Question & Answer*

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## **DISCLAIMER**

This presentation is for professional education at the ICAI webinar and reflects the presenter's reading of the law as of the date of this session. The exact clause wording is reproduced from Form No. 3CD, Income-tax Rules, 1962 (as amended). Judicial rulings cited are illustrative of the litigation trend and must be independently verified from an updated case-law database before being relied upon in a professional opinion. The Income-tax Act, 2025 section references are based on the mapping published to date and should be confirmed against the final Income-tax Rules, 2026 and CBDT notifications before use.

**Chhallani Agarwal & Associates, Chartered Accountants**

Direct Tax Advisory & Compliance

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