

RJA

Rajput Jain & Associates

Chartered Accountants



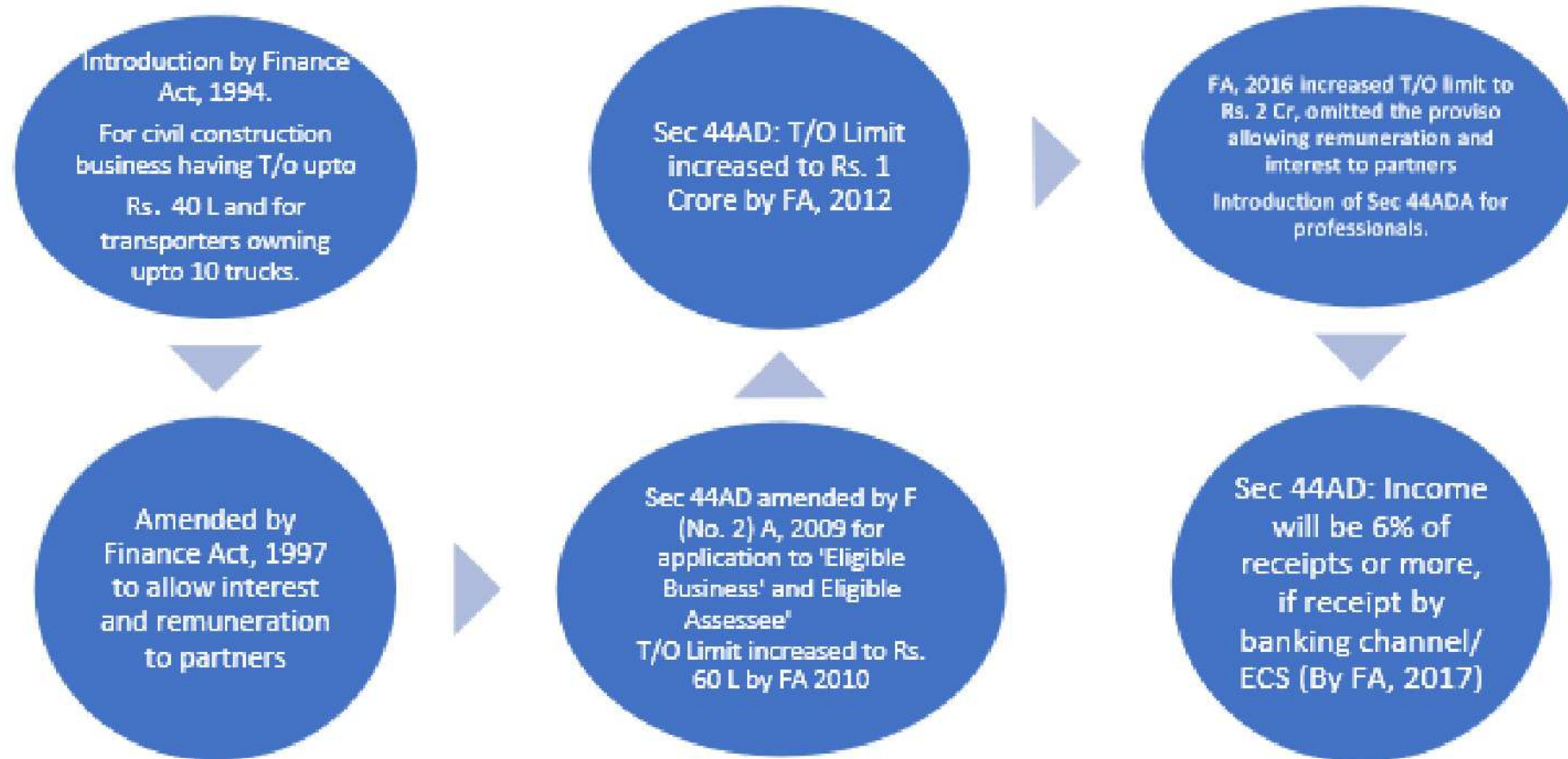
About Us

- Rajput Jain & Associates is a Chartered Accountants firm, with its headquarter situated at New Delhi (the capital of India). The firm has been set up by a group of young, enthusiastic, highly skilled and motivated professionals who have taken experience from top consulting firms and are extensively experienced in their chosen fields has providing a wide array of Accounting, Auditing, Taxation, Assurance and Business advisory services to various clients and their stakeholders. focus at providing tailor made solutions to challenging problems of our clients, and perform with high quality and timely service.
- Rajput jain & Associates, a professional firm, offers its clients a full range of services, To serve better and to bring bucket of services under one roof, the firm has merged with it various Chartered Accountancy firms pioneer in diversified fields
- Our main office is located at Delhi. Incidentally, Delhi is the Capital of India. Our other offices are in Mankapur & Moradabad (U.P.). We have associates all over India in big cities. All our offices are well equipped with latest technological support with updated reference materials. We have a large team of professionals other than our Core Team members to meet the requirements of our prospective clients including the existing ones. However, considering our commitment towards high quality services to our clients, our team keeps on growing with more and more associates having strong professional background with good exposure in the related areas of responsibility. Further to meet the growing demands of the fiercely competitive market we are constantly looking forward for team of associates comprising of highly skilled professionals to cater the needs ever increasing clientele.

Presumptive Taxation



Historical Background



Meaning of “Notwithstanding anything to the contrary contained in Sec. 28 to 43C”

- The Section 44AD(1) begins with “Notwithstanding Anything to contrary contained in section 28 to 43C” it means section 28 to 43C of Income Tax Act, 1961 is not applicable on eligible assessee carrying on eligible business. Hence, no disallowance / no deemed income under Section 40(a), 40A, 40A(3), 40A(3A), 41 can be made.
- **Example** : If any person opting for sec 44AD has made cash purchases worth Rs. 15,000 no disallowance can be made u/s 40A(3), even if the cash payment to a person exceeds Rs. 10,000 in a day. Cash payment to transporter in excess of Rs. 35,000 in a day shall not be disallowed. Similarly, disallowance u/s 40A for excess payment to relatives cannot be made. No addition u/s 41 can be made.
- **Example** : Mr. Y has claimed bad debts written off of Rs. 50,000 in year 2014-15. In P.Y. 2019-20 he has recovered Rs. 30,000. Separate addition of bad debts recovered may not be made if the profits are declared under presumptive taxation scheme.
- **Example**: Mr. Y has turnover of Rs. 50,00,000 for the P.Y. 2019-20. He has declared profits at the rate of 8% amounting to Rs. 4,00,000. He has bought machinery worth Rs. 12,00,000 on 15/04/2019. He has loss from house property of Rs. 75,000. Can he deduct depreciation of Rs.1,80,000 (15% of Rs.12,00,000) and set off loss from the above profit of Rs.4,00,000? No, depreciation shall not be reduced from the above profits. It is deemed that depreciation has been already claimed and allowed. The closing WDV as on 31/03/2020 shall be Rs. 10,20,000 (12,00,000 – 1,80,000). Mr. Y shall be allowed to set off the loss of Rs. 75,000. The total income will be Rs.3,25,000 (4,00,000 – 75,000)

Is it mandatory for professionals opting for presumptive taxation to maintain books of account?

- *“44AA- (1) Every person carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or any other profession as is notified by the Board in the Official Gazette shall keep and maintain such books of account and other documents as may enable the Assessing Officer to compute his total income in accordance with the provisions of this Act.*
- *(2) Every person carrying on business or profession [not being a profession referred to in sub-section (1)] shall,—*
- *(i) if his income from business or profession exceeds one lakh twenty thousand rupees or his total sales, turnover or gross receipts, as the case may be, in business or profession exceed or exceeds ten lakh rupees in any one of the three years immediately preceding the previous year; or*
- *(ii) where the business or profession is newly set up in any previous year, if his income from business or profession is likely to exceed one lakh twenty thousand rupees or his total sales, turnover or gross receipts, as the case may be, in business or profession are or is likely to exceed ten lakh rupees, during such previous year; or*
- *(iii) where the profits and gains from the business are deemed to be the profits and gains of the assessee under section 44AE or section 44BB or section 44BBB, as the case may be, and the assessee has claimed his income to be lower than the profits or gains so deemed to be the profits and gains of his business, as the case may be, during such previous year; or*
- *(iv) where the provisions of sub-section (4) of section 44AD are applicable in his case and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year,*
- *keep and maintain such books of account and other documents as may enable the Assessing Officer to compute his total income in accordance with the provisions of this Act:*

- *Provided that in the case of a person being an individual or a Hindu undivided family, the provisions of clause (i) and clause (ii) shall have effect, as if for the words "one lakh twenty thousand rupees", the words "two lakh fifty thousand rupees" had been substituted :*
- *Provided further that in the case of a person being an individual or a Hindu undivided family, the provisions of clause (i) and clause (ii) shall have effect, as if for the words "ten lakh rupees", the words "twenty-five lakh rupees" had been substituted. (3) The Board may, having regard to the nature of the business or profession carried on by any class of persons, prescribe, by rules, the books of account and other documents (including inventories, wherever necessary) to be kept and maintained under sub-section (1) or sub-section (2), the particulars to be contained therein and the form and the manner in which and the place at which they shall be kept and maintained. (4) Without prejudice to the provisions of sub-section (3), the Board may prescribe, by rules, the period for which the books of account and other documents to be kept and maintained under subsection (1) or sub-section (2) shall be retained."*
- **In case of a person engaged in a specified profession as referred in sections 44AA(1) and opts for presumptive taxation scheme of sections 44ADA, the provision of sections 44AA relating to maintenance of books of account will not apply. In other words, if a person opt for the provisions of sections 44ADA and declares income @50% of the gross receipts, then he is not required to maintain the books of account in respect of specified profession."**

No audit is required if turnover is up to Rs.1 crore and taxable income is below exemption limit

- *“(4) Where an eligible assessee declares profit for any previous year in accordance with the provisions of this section and he declares profit for any of the five assessment years relevant to the previous year succeeding such previous year not in accordance with the provisions of sub-section (1), he shall not be eligible to claim the benefit of the provisions of this section for five assessment years subsequent to the assessment year relevant to the previous year in which the profit has not been declared in accordance with the provisions of sub-section (1).*
- *(5) Notwithstanding anything contained in the foregoing provisions of this section, an eligible assessee to whom the provisions of sub-section (4) are applicable*

and

- *whose total income exceeds the maximum amount which is not chargeable to income-tax, shall be required to keep and maintain such books of account and other documents as required under sub-section (2) of section 44AA and get them audited and furnish a report of such audit as required under section 44AB.”*

- To claim the benefit of above sec 44AD(5), firstly we have to see the meaning of total income. As per sec 2(45) of the Act. Total income means the total amount of income referred to in section 5 computed in the manner laid down in the Act. Thus total income for the purpose of Sec 44AD(5) would be determined as under : i) Income from all heads of income be aggregated after adjusting for brought forward losses, unabsorbed depreciation, etc. and after excluding exempt incomes; ii) From the resultant, amount eligible for deduction under Chapter VI-A will be deducted. iii) Balance will be total income for the purposes of section 44AD(5) iv) If the total income is below the maximum amount not chargeable to tax in the case of assessee then the assessee will not be required to maintain books and get them audited if he declares profit from eligible business lower than that deemed under section 44AD. Further, if any individual/HUF has incurred loss, then also there is no need to maintain books and to get them audited.
- It is to noted that above exemption can be claimed only by individual or HUF and not in case of partnership firm a Firm as partnership firm do not avail any basic exemption limit , hence ,Tax Audit u/s 44AB is applicable. These provisions can be presented in tabular form as under:

Income from Eligible Business	Total Income	Applicability of Section 44AD	Applicability of section 44AA	Applicability of section 44AB
More than 8% of turnover	Exceeds basic Exemption Limit	YES	NO	NO
Less than 8% of Turnover	Exceeds basic Exemption Limit	NO	YES	YES
Less than 8% of Turnover	Dose not Exceeds basic Exemption Limit	NO	NO	NO
Equal to 8% of Turnover	Exceeds basic Exemption Limit	YES	NO	NO

- **Example** : Mr. Fancy aged about 52 years runs a grocery shop. He sells goods on cash basis only. For the P.Y. 2019-20, he provides the following information. He has no income other than profits from his shop. Whether Mr. Fancy will be required to get books of account audited?

Case	Sale/Receipts	Net Profit	8% of Sale	Whether Audit Applicable?
1	Rs. 80,00,000	RS.4,00,000	Rs.6,40,000	Yes, because profit lower than 8% of sale and his total income exceeds basic exemption limit.
2	Rs. 60,00,000	Rs.2,25,000	Rs.4,80,000	No, because his total income is less than basic exemption limit of Rs.2,50,000 even though profits are less than 8% of sale.
3	Rs. 1,40,00,000	Rs.1,75,000	Rs.11,20,000	Yes, because sale has exceeded Rs. 1 crore. therefore, this case is covered u/s 44AB(a) and not 44AB(e). It is to be noted that limit u/s 44AB(a) is Rs. 1 crore and not Rs.2 crore. However, if the assessee having turnover up to Rs. 2 crore opts for sec 44AD, then he will not be required to get his books audited.
4	Rs. 70,00,000	Rs.9,00,000	Rs.5,60,000	No, as he has declared profits more than the 8%.

Applicability of TDS provisions after amendment by Finance Act, 2020

- It is to be noted that the provisions for presumptive taxation override only sec 28 to 43C and not the provisions of TDS. Therefore, assessee declaring income u/s 44AD, 44ADA or 44AE is liable to deduct TDS. e.g. Every 'person' is required to deduct TDS u/s 192 if the estimated salary exceeds the maximum amount not chargeable to tax. Any individual paying salary of Rs. 8,50,000 p.a. would be required to deduct TDS even though he is declaring income u/s 44AD.
- Further, sec 194A, 194C, 194H, 194I and 194J have been amended by Finance Act, 2020. Now, individual or HUF having turnover/ gross receipts of more than Rs. 1 crore in case of business and more than Rs. 50 Lakh in case of profession during the preceding financial year shall be required to deduct TDS under the above sections. Earlier in sec 194A, 194H, 194I and 194J it was mentioned that if the turnover/ receipts exceed the monetary limits specified u/s 44AB in the preceding financial year. In sec 194C, it was if individual or HUF was liable for audit under clause (a) or (b) of section 44AB in the preceding financial year. Effect of amendment: The persons having turnover of more than Rs. 1 crore but less than Rs. 2 crore and declaring income u/s 44AD would be required to deduct TDS under the above sections
- **Example:** Mr. A has a turnover of Rs. 1,25,00,000 in the P.Y. 2018-19. In F.Y. 2019-20 he paid interest of Rs. 25,000. Whether Mr. A has to deduct TDS u/s 194A if he declares income u/s 44AD?
- Yes, Mr. A will be required to deduct TDS u/s 194A as his turnover in the preceding F.Y. is above Rs. 1 crore. The interest amount is above Rs. 5,000. Hence, Mr. A will be required to deduct TDS even if income is declared u/s 44AD otherwise he will be deemed as assessee in default as per sec 201. However, he does not deduct TDS, no disallowance of expense will be made as per sec 40(a).

Applicability of Section 44ADA to a partner of firm receiving remuneration and/or interest from the firm

- The provisions of Section 44ADA shall be applicable to the remuneration and other receipts by a partner from a professional services firm? In this connection, it is to be noted that the Income Tax Act, 1961 vide Section 40(b) states that the firm is eligible to claim remuneration as deduction to the extent specified therein and such remuneration is deductible in hands of the firm. The balance amounts are subjected to tax as profits in the hands of the firm. In other words, the eligible remuneration is deductible in the hands of firm and taxable in hands of partners, the remainder (profit) is taxable in hands of the firm and exempted in the hands of partners u/s 10(2A).

Hence, in the hands of the partner, the following will be the impact:

1. Remuneration which was allowed as deduction in firm will be taxable
2. Profit which was taxed in the hands of the firm will be exempt.

Presumptive Taxation in case of Partnership firms

- Resident Partnership Firms are eligible to opt for presumptive taxation u/s 44AD or 44ADA or 44AE. Sec 44AD and 44AE were amended in 1997 w.e.f 01/04/1994 to allow remuneration and interest to partners (subject to conditions and limits specified in section 40(b)) after determination of profits as per sec 44AD or 44AE. However, by Finance Act, 2016, second proviso to Section 44AD(2) has been omitted which provided for deduction under section 40(b) with regard to the salary and interest to partners. However, sec 44AE has not been amended. Hence, remuneration and interest to partners will not be allowed in sec 44AD and 44ADA. However, remuneration and interest to partners will be allowed if income is declared u/s 44AE.

Receipts	Net Profit	50% of receipts	Allowability of remuneration
Rs.40,00,000	Rs.20,00,000	Rs.20,00,000	No remuneration and interest will be allowed as expense.
Rs.40,00,000	Rs.24,00,000	Rs.20,00,000	Remuneration and interest can be allowed up to Rs. 4,00,000, subject to sec 40(b)
Rs.40,00,000	Rs.18,00,000	Rs.20,00,000	Sec 44ADA not applicable as profit is claimed to be less than 50% of receipts. RSK & Associates will be required to get their books of account audited u/s 44AB(d). Remuneration may allowed as per sec 40(b)

Changes in Tax Audit Turnover Limit under section 44AB by Finance Act 2020

- Currently, businesses having turnover of more than one crore rupees are required to get their books of accounts audited by an accountant. In order to reduce the compliance burden on small retailers, traders, shopkeepers who comprise the MSME sector, the Finance Act 2020 has raised the limit of audit by five times the turnover threshold for audit from the existing Rs. 1 crore to Rs. 5 crore
- Further, in order to boost less cash economy, it has been provided that the increased limit for mandatory tax audit shall apply only to those businesses which carry out less than 5% of their business transactions in cash. But in this connection, following points are to be noted
- 1. This threshold limit for the applicability of mandatory tax audits is applicable to business entity only and limit for a professional assessee shall continue to be at Rs. 50 lacs even if he receives entire consideration in non-cash mode.
- 2. It is not provided that who will certify the margin of transactions in cash mode of 5 percent. It appears that the assessee is himself required to declare the percentage of receipt in cash mode and non-cash mode
- 3. The provision to increase the turnover limit for a mandatory tax audit is amended to benefit the MSME sector.
- 4. The amendment is carried out only in section 44AB. No amendment is made in section 44AD and thus the turnover limit of Rs. 2 crore shall continue. Suppose an assessee is having a turnover of 180 lacs for the financial year 2020.21 and all the transactions of business are by non-cash modes. The net profit of the assessee is Rs.7 lacs, which is less than 6% of turnover of the assessee. Now as per the provisions of sec 44AD, the assessee is required to maintain books of account and get them audited u/s 44AB of the Act.
- 5. The term 'aggregate of all receipts and aggregate of all payments' is very wide and covers not only the receipts and payments on account of turnover or sales but all other business transactions. Capital introduction, receipt and repayment of a loan, etc., partners' drawings, payment of freights, etc. Even payment of taxes made in cash will come within the purview of cash transactions.

Contact Us

- Address: P-6/90, Connaught Circus Connaught Place New Delhi- 110001
- Telephone: +91 011 -23343333
- Email : info@carajput.com
- Website : www.carajput.com

**Corporate
Office**

- Address: 1598, Level-1, Sector 22-B, Chandigarh
- Telephone:017-25085213, 9814333213
- Email : rajputjainandassociates@gmail.com

Branch Office

- Address: 204, Prakash Chamber, 6, Netaji Subash Marg, Darya Ganj, New Delhi-110002
- Telephone: +91 011 -43520194
- Email: support@carajput.com
- Address: 163, Building No.65 Lakhe chaur Marg New Baneshwor, Kathmandu, Nepal
- Telephone: +977-01-2051061
- Email: pmahaseth@carajput.com

Head Office



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