

## Decoding Tax Audit u/s 44AB(e): 44AD

Particulars	Myths	Facts
<b>Percentage criteria</b>	<p>Audit is mandatory <b>ONLY</b> if assessee opts to report lower profit than the prescribed rate: i.e. 6/8% as the case may be.</p> <p>Audit is completely linked with lower profit criteria.</p>	<p>Live provision of law, simply provide that audit would be required if 44AD(4) is attracted.</p> <p><i>44AD(4) : An <b>eligible assessee must declare profit for any previous year in accordance with the provisions of section 44AD 'and' he declares profit not in accordance with the provisions of sub-section (1) in any 5 succeeding years then...</b></i></p>
<b>Example</b>	<p>If an assessee opts in presumptive scheme and in next year if he declares 15% profit but by maintaining books of accounts and opting out of presumptive scheme then the audit would NOT be attracted as the actual/derived profit is above deemed profit of 6/8%.</p>	<p>If in any year, assessee opts in presumptive scheme and in next year even if he declares 15% profit <u>but by maintaining books of accounts and opting out of presumptive scheme</u>, still audit would be attracted as the new provision do not link the audit with profit percentage but simply based upon the fact of entry and exit from presumptive scheme within the stipulated period. <b>OPT IN / OPT OUT</b></p>
<b>All other presumptive schemes</b>	<p>44AB(c): Audit provisions are linked with Profit criteria. 44AE/44BB/44BBB                      44AB(d): Audit provisions are linked with Profit criteria. 44ADA                      44AB(e): Audit provisions are linked with Profit criteria. 44AD</p>	<p>44AB(c): Audit provisions are linked with Profit criteria. 44AE/44BB/44BBB                      44AB(d): Audit provisions are linked with Profit criteria. 44ADA                      44AB(e): Audit provisions of section 44AD clearly linked with <b>OPTING OUT</b> of the scheme after opting in.</p>
<b>Opt out</b>	<p>Opting out of 44AD always requires an audit regardless of turnover.</p>	<p>If you opt out of 44AD within five years and your total income exceeds the basic exemption limit, an audit under section 44AB(e) is mandatory. If your total income is below the basic exemption limit, an audit is not required.</p>
<b>Higher Profit vs. Deemed Profit</b>	<p>As per sec 44AD(1), if higher profit is earned by the assessee, then he <b>MUST</b> have to offer such higher profit only.</p>	<p>The word used is,...<b>claimed</b> to have been earned by the eligible assessee... The word "Claim" signifies the right of assessee, and it is not an obligation of the assessee. If there is no claim made by assessee in return for higher income, there is no higher income.</p>

Few more examples	TURNOVER	PROFIT	44AD opted in any PY	44AD opted in CY – 5 yrs not completed yet	Audit applicability - MYTH	Reason - MYTH	Audit applicability - FACT	Reason - FACT
	Below 1 CR	Below 6/8%	No	No	Yes	Profit shown below 6/8%	No	T/o below 1 Cr and Never opted 44AD in any PY.
	Below 1 CR	Above 6/8%	Yes	Out out by maintaining books of accounts	No	Profit shown above 6/8%	Yes	Though profit shown above 6/8%, but 44AD scheme Opt Out by maintaining books of accounts.
	Up to 2 Cr / 3 Cr for Digital transaction <b>AND</b> Total income does not exceeds Basic Exemption limit.	Below 6/8%	Yes	No	Yes – as per Sec 44AD(4)	Profit shown below 6/8%	No	As his Total income does not exceeds basic exemption limit.
	Above 2 Cr / 3 Cr for Digital transaction But Below 10 Cr – Provided aggregate of all amounts received and paid in Cash, does not exceed five per cent of the said amount.	Below 6/8%	Yes	No	Yes	Profit shown below 6/8%	No	44AD itself not applicable and hence rule of minimum profit criteria does not applies. Audit is not applicable as per sec 44AB(a).

<b>GST to be part of Turnover?</b>	<p>GST is to be taken as part of turnover for Sec. 44AD of Income tax.</p> <p>Reason 1: As per Sec 145A(ii) the valuation of purchase and sale of goods or services and of inventory shall be adjusted to <u>include</u> the amount of any tax, duty, cess or fee (by whatever name called) actually paid or incurred by the assessee to bring the goods or services to the place of its location and condition as on the date of valuation.</p>	<p>GST is <b>NOT</b> required to be considered as part of turnover.</p> <p>Reason 1: Definition of Turnover specifically defined in Sec. 2(112) of CGST Act where turnover “excludes Central Tax, State Tax, Union Territory Tax, integrated tax and cess.</p> <p>Reason 2: Income Tax Act does not define “turnover”. Sec. 145A(ii) does not specifically refers to GST. It provides for inclusion of those taxes which are "paid or incurred by the assessee to bring the goods or services to the place of its location and condition as on the date of valuation. And GST is NOT a tax for bringing the goods to the place of its location and condition as on the date of valuation. Further, Sec. 145A is not for computation of Income. It is for the method of accounting and Sec 44AD does not require any accounting.</p>
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<b>8% and 6% simultaneousl y</b>	No, Either 6% OR 8% of Turnover	Yes, 6% of turnover for Digital transaction AND 8% of turnover on Non-digital transaction simultaneously. As 5% of cash criteria is for Turnover and not for Profit.
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Deciding on Section 44AD is like playing a T20 match: Score big with tax benefits, but watch out for the LBW (audit) if you mistime your declaration!  
- all the views are strictly personal