

TAXBOOK⁺

Working steps of solutions

B41 to B50

Profits and Gains of Business or Profession

Build Your Confidence (BYC)

SPECIAL PROVISIONS

B41. S. 41(1) – Identify whether deemed profits would arise u/s 41(1) for AY 2022-23 in the following situations in the hands of Zen, carrying on manufacturing business.

#	Situation	Deemed profits u/s 41(1)
1	Refund of excise duty of Rs. 20,000 on 1.10.2021 which was claimed as deduction for PY 2019-20.	20,000 in PY 2021-22
2	Deduction of Rs. 1 lakh on account of telephone expenses allowed for PY 2020-21. Out of this, Rs. 20,000 is refunded on 1.10.2021 as the earlier billing was erroneous.	20,000 in PY 2021-22
3	Refund of GST of Rs. 50,000 received by Zen's son on 1.10.2021 who has succeeded Zen in his business after his death. This amount was deducted while computing business income of Zen for PY 2018-19.	50,000 in hands of son in PY 2021-22
4	Zen purchased goods on credit from Yen on 1.10.2019 for Rs. 1 lakh and this was allowed as deduction in his hands for PY 2019-20. Owing to a dispute regarding defect in the goods, Yen agreed to accept Rs. 60,000 in full and final settlement. Zen made the payment on 1.10.2021 and squared off the account.	40,000 in PY 2021-22
5	Stock-in-trade worth Rs. 5 lakh was destroyed in fire on 1.10.2020 and this was deducted as a business loss for PY 2020-21. Zen received Rs. 2 lakh as compensation from the insurance company on 1.10.2021.	2 lakh in PY 2021-22
6	Zen obtained a loan of Rs. 5 lakh from another businessman on 1.10.2020. The loan was waived off by the lender on 1.10.2021.	No, since deduction not made on this count ¹

B42. S 43CA – Sky Builders has sold a building, held as stock-in-trade, on 10.12.2021 whose cost of construction is

Computation of income from sale of building

Particulars	I	II	III
Sale price u/s 43CA (Note)	24,00,000	20,00,000	25,00,000
Less: Cost	(10,00,000)	(10,00,000)	(10,00,000)
Income on sale	14,00,000	10,00,000	15,00,000

Note:

I: SDV on date of transfer taken as consideration as it is > 110% of actual consideration. SDV on date of agreement not considered as actual consideration (or part) not received on or before that date by specified mode.

II: Actual consideration taken, as SDV on date of agreement ≤ 110% of actual consideration. SDV on date of agreement considered as actual consideration (or part) is received on or before that date by specified mode.

¹ Waiver of loan taken for trading activities can be taxed under general principles of s. 28 [222 ITR 344 (SC)]. Waiver of loan taken for capital purposes can be taxed u/s 2(24)(xviii) in certain cases.

III: SDV on date of transfer taken as consideration as it is > 110% of actual consideration. SDV on date of agreement not considered as actual consideration (or part) not received on or before that date by specified mode.

B42A. S. 43CA - JK Builders sold a residential unit to Mr. B on 1.6.2021. The sale was by way of first time allotment

Actual consideration of Rs. 175 lakh will be taken, as SDV on date of agreement ≤ 120% of actual consideration. SDV on date of agreement will be considered as actual consideration (or part) is received on that date by specified mode. Safe harbor limit of 120% will apply as transfer of residential unit, by way of first time allotment, takes place during the period 12.11.2020 to 30.6.2021 and actual consideration ≤ 2 crore. Profit on sale will be Rs. 75 lakh (Rs. 175 lakh – Rs. 100 lakh).

If date of sale is 1.7.2021, safe harbor limit of 120% will not apply as date of sale is not during the period 12.11.2020 to 30.6.2021. SDV on date of agreement will be taken as it is > 110% of actual consideration. Profit on sale will be Rs. 100 lakh (Rs. 200 lakh – Rs. 100 lakh).

B43. S. 43CA – DLF Ltd, a builder, sold a building, held as stock-in-trade, on 1.9.2021 for Rs. 75 lakh.....

- (a) 90 lakh will be taken as SDV > 110% of consideration.
- (b) Case (i): DVO value is 92 lakh: Full value of consideration will be taken as 90 lakh as DVO value > SDV. Case (ii): DVO value is 80 lakh: Full value of consideration will be taken as 80 lakh as DVO value ≤ SDV.

COMPLIANCE

B44. S. 44AA – Identify whether Suraj Sharma needs to maintain books of accounts under the Income Tax Act for the AY 2022-23 in the following situations.

Business/ profession	Parameter	2021-22	2020-21	2019-20	2018-19	Requirement
Lawyer	Gross receipts Income from profession	1.5 lakh (50,000)	1.6 lakh (40,000)	1.8 lakh 20,000	1.9 lakh 70,000	It is specified profession. As per R 6F, as GR > 1.5L in all 3 preceding PYs
Film music director	Gross receipts Income from profession	12.5 lakh 10 lakh	10.5 lakh 8 lakh	5.5 lakh 4 lakh	1.5 lakh 1 lakh	It is specified profession. Sufficient books*, as GR is not > 1.5L in all 3 preceding PYs
Author	Gross receipts Income from profession	26 lakh 3 lakh	24 lakh 2 lakh	23 lakh 2.6 lakh	20 lakh 1 lakh	It is non-specified profession. Sufficient books*, as income from B/P > 2.5L in one of 3 preceding PYs
Bookseller	Turnover Income from business	27 lakh 3 lakh	20 lakh 2.5 lakh	24 lakh 1.5 lakh	25 lakh 1.8 lakh	It is business. No books as income from B/P is not > 2.5L and S/TO/GR is not > 25L in any of 3 preceding PYs

*Sufficient books are such books of account and other documents as would enable the AO to compute total income.

B45. S. 44AB – Identify whether Veena needs to get her books of accounts audited u/s 44AB of the Income Tax Act for AY 2022-23 in the following cases based on the following particulars given for PY 2021-22.

Business/ profession	S/TO/GR in business or GR in profession	Total receipts	Receipts in cash mode*	Total payments	Payments in cash mode*	Tax audit?
Doctor	45 lakh	55 lakh	20 lakh	15 lakh	10 lakh	No, as GR is not > 50L
Retailer	1 crore	1.2 crore	10 lakh	40 lakh	Nil	No, as S/TO/GR is not > 1 cr
Retailer	11 crore	12 crore	Nil	6 crore	Nil	Yes, as S/TO/GR > 10 cr. 10 cr limit applies as receipts in cash mode ≤ 5% of total receipts and payments in cash mode ≤ 5% of total payments for the PY
Retailer	4 crore	4 crore	15 lakh	2 crore	15 lakh	Yes, as S/TO/GR > 1 cr. 1 cr limit applies as cash payments > 5% of total payments for the PY

Retailer	2 crore	2 crore	9 lakh	1 crore	4 lakh	No, as S/TO/GR is not > 10 cr. 10 cr limit applies as receipts in cash mode ≤ 5% of total receipts and payments in cash mode ≤ 5% of total payments for the PY
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*Cash or cheque/DD (which is not A/c payee)

PRESUMPTIVE INCOME FOR SMALL ENTERPRISES

B46. S. 44AD – CA2018(M) (modified) - Mr. Quereshi is a businessman. During the year ended 31.3.2022, he was

Since total turnover for PY 2021-22 of Rs. 1.25 crore is up to Rs. 2 crore, he is eligible to opt for presumptive income scheme u/s 44AD.

Computation of profits and gains of business or profession of Mr. Quereshi under presumptive income scheme u/s 44AD

Particulars	Rs.
Hypermarket business (100% cash sales) = 8% of 75 lakh	6,00,000
Supermarket business (online sales) = 6% of 50 lakh	3,00,000
Profits and gains of business or profession computed u/s 44AD	9,00,000

No deduction is allowed in respect of any expenditure.

Since Mr. Quereshi maintains proper books of accounts, his income as per books can be computed and if such income is more than income computed u/s 44AD, the higher income can be declared u/s 44AD.

Computation of profits and gains of business or profession of Mr. Quereshi as per books of account

Particulars	Rs.	Rs.
Net profit (as given in question)		3,93,950
<i>Add:</i>		
Depreciation debited in the books (not as per Income Tax Act)	8,12,000	
Cash payment in excess of Rs. 10,000 to accountant in a day (disallowed u/s 40A(3))	75,000	
Building construction expenditure debited to P&L (not deductible)	1,00,000	9,87,000
<i>Less:</i>		
Depreciation under Income Tax Act	7,17,000	
Depreciation on building extension of a room @ 10% (assuming it is not included in the above figure of depreciation)	10,000	(7,27,000)
Profits and gains of business or profession computed as per books of account		6,53,950

PGBP computed as per books is less than that computed u/s 44AD. However, since Mr. Quereshi wants to declare presumptive income u/s 44AD, his PGBP income would be Rs. 9,00,000.

B47. S. 44AD/44ADA – MASTER QUESTION - Compute income under the head PGBP in case of Rachna, a resident

Computation of profits and gains of business or profession of Rachna u/s 44AD or 44ADA

Rachna is a resident. In case A, she is eligible to claim income computation u/s 44AD since turnover ≤ 2 crore and she does not claim deduction u/s 10AA or Ch. VIA-C (80C is covered u/c VIA-B and not u/c VIA-C). In case B, she is eligible to claim income computation u/s 44ADA as she is carrying on a specified profession and gross receipt ≤ 50 lakh.

Particulars	Case A	Case B
Income u/s 44AD:		
• 6% of turnover received by a/c payee cheque till due date of ROI = 6% of 30,00,000	1,80,000	
• 8% of remaining turnover = 8% of 15,00,000	1,20,000	
Income u/s 44ADA = 50% of 45,00,000		22,50,000
Profits and gains of business or profession	3,00,000	22,50,000

Deductions u/s 30 to 38 are deemed to have been allowed. Hence, no further deduction is allowed.

Computation of profits and gains of business or profession of Rachna as per books

Particulars	Rs.
Total turnover /gross receipts	45,00,000
Less:	
• Depreciation	(10,00,000)
• Other expenses (Rs. 1,00,000 paid in cash disallowed u/s 40A(3) as it is > 10,000)	(33,00,000)
Profits and gains of business or profession	2,00,000

Case A: Income computed as per presumptive provisions of section 44AD is more than income computed as per books. PY 2020-21 being the first year of opting for 44AD, she should continue to do so for PY 2021-22 to 2025-26. If she does not opt for 44AD in PY 2021-22, benefit of 44AD will cease for 5 PYs subsequent to PY 2021-22 and she will need to comply with 44AA and 44AB for PY 2021-22 to 2026-27 if her total income > basic exemption limit of Rs. 2,50,000.

Case B: Income computed as per presumptive provisions of section 44ADA is more than income computed as per books. She can claim the lower income as per books. In such case, she will need to comply with 44AA and 44AB for PY 2021-22 since her total income > basic exemption limit of Rs. 2,50,000.

B47a. CA2021(JULY) – M/s MN & Co., a partnership firm, is engaged in the business of plying and hiring goods vehicles.....

Since the firm is engaged in the business of plying and hiring goods vehicles and it does not own > 10 goods carriages at any time during the PY, it is eligible for section 44AE.

Computation of presumptive income as per section 44AE

Gross vehicle weight (kg)	No. of carriages	No. of months (or part) carriage owned during PY	Rate p.m. (per ton p.m. for HGV)	Ton	Presumptive income
(1)	(2)	(3)	(4)	(1) × (2) × (3) × (4)	
Heavy goods vehicle (> 12 ton)					
15,000	2	12	1,000	15	3,60,000
15,000	1	10*	1,000	15	1,50,000
Other than heavy goods vehicle					
7,000	2	12	7,500	-	1,80,000
9,000	2	12	7,500	-	1,80,000
12,000	3	12	7,500	-	2,70,000
					11,40,000

*Months vehicle is owned is to be considered and not months used.

Computation of income of the firm for AY 2022-23 if it opts for section 44AE

Particulars	Rs.
Income as computed u/s 44AE	11,40,000
Less: Partner's remuneration within the limits prescribed u/s 40(b)	(1,50,000)
	9,90,000

If the firm wants to claim its income as per books of accounts of 6,50,000 (which is lower than income of 9,90,000 computed based on section 44AE), it should maintain books of account u/s 44AA and get tax audit done u/s 44AB.

If the firm opts for section 44AE, it would not need to comply with section 44AB. Its due date to file ROI would be 31 July 2022. However, if it does not opt for section 44AE, it would need to comply with section 44AB and its due date to file ROI would be 31 October 2022 (para 232).

Mistake by students – Lack of preparation while computing business income applying section 44AE.

B48. S. 44AE – MASTER QUESTION - Sunanda is engaged in the business of plying, hiring and leasing goods

Sunanda can avail the presumptive taxation provision of section 44AE as she is engaged in the business of plying, hiring and leasing goods carriages and she does not own > 10 goods carriages at any time during the PY.

Computation of presumptive income as per section 44AE

Gross vehicle weight (kg)	No. of carriages	No. of months (or part) carriage owned during PY	Rate p.m. (per ton p.m. for HGV)	Ton	Presumptive income
	(1)	(2)	(3)	(4)	(1) × (2) × (3) × (4)
Heavy goods vehicle (> 12 ton)					
15,000	1	1	1,000	15	15,000
15,000	4	12	1,000	15	7,20,000
Other than heavy goods vehicle					
12,000	1	3	7,500	-	22,500
12,000	4	12	7,500	-	3,60,000
10,000	2	4	7,500	-	60,000
					11,77,500

Computation of income as per books

Particulars	Rs.
Freight charges	15,00,000
Less: Operational expenses	(6,00,000)
Less: Depreciation	(2,50,000)
Business income	6,50,000

Since her income from such business computed as per books is lower than presumptive income, she can claim the lower income of Rs. 6,50,000 if she complies with sections 44AA and 44AB for the PY 2021-22.

B49. S. 44AE – CA2019(N) - Prakash is in the business of operating goods vehicles. As on 1.4.2021, he had

Benefit of section 44AE is available since Prakash does not own more than 10 goods carriages at any time during PY 2021-22.

Computation of presumptive income as per section 44AE

Type of carriage	No. of months (or part) vehicle is owned during PY	Rate p.m. (per ton p.m. for HGV)	Ton	Amount
(1)	(2)	(3)	(4)	(5) = (2) × (3) × (4)
Heavy goods vehicle (> 12 ton)				
Vehicle B	12	1,000	13	1,56,000
Vehicle E	11	1,000	15	1,65,000
Other than heavy goods vehicle				
Vehicle A	12	7,500	-	90,000
Vehicle C	12	7,500	-	90,000
Vehicle D	12	7,500	-	90,000
Total				5,91,000

Mistake by students – Date of owning is relevant and not the date of put to use.

COMPREHENSIVE

B50. COMPREHENSIVE - CA2015(N) - State with reasons, the allowability of the following expenses incurred by MN Ltd....

#	Expense	Allowability
1	Construction of school building in compliance with CSR activities amounting to Rs. 5,60,000	CSR expenditure u/s 135 of Companies Act is not allowable as per Explan 2 to S. 37(1)
2	Purchase of building for setting up a warehousing facility for storage of food grains amounting to Rs. 4,50,000	Eligible for investment linked tax deduction u/s 35AD @ 100% of such amount if the relevant conditions of that section are satisfied
3	Interest on loan paid to Mr. X (a resident) of Rs. 50,000 on which tax	TDS is to be deducted u/s 194A (para 213). Rs. 15,000 (30% of Rs. 50,000) will be disallowed u/s 40(a)(ia) assuming that Mr. X has also not paid the tax, if any, on

	has not been deducted.	such interest. Balance will be allowed u/s 36(1)(iii) assuming that amount was borrowed for purposes of business.
4	Commodities transaction tax paid Rs. 20,000 on sale of bullion.	Allowable as deduction u/s 36(1)(xvi) assuming that income from commodity transactions is included in computing business income.