DRAFT OBSERVATION IN CASE OF TAX AUDIT

PREPARED BY CA NITIN KANWAR

**General**

**Assessee’s Responsibility**

1. The assessee is responsible for the preparation of the aforesaid financial statements that give a true and fair view of the financial position and financial performance (if applicable) in accordance with the applicable Accounting Standards issued by the Institute of Chartered Accountants of India. This responsibility includes the design, implementation and maintenance of internal control relevant to the preparation and presentation of the financial statements that give a true and fair view and are free from material misstatement, whether due to fraud or error.
2. The assessee is also responsible for the preparation of the statement of particulars required to be furnished under section 44AB of the Income-tax Act, 1961 annexed herewith in Form No. 3CD read with Rule 6G(1)(b) of Income Tax Rules, 1962 that give true and correct particulars as per the provisions of the Income-tax Act, 1961 read with Rules, Notifications , circulars etc. that are to be included in the Statement.

**Tax Auditor’s Responsibility**

1. My/ Our responsibility is to express an opinion on these financial statements based on my/our audit. I/We have conducted this audit in accordance with the Standards on Auditing issued by the Institute of Chartered Accountants of India. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.
2. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor’s judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances but not for the purposes of expressing an opinion on the effectiveness of the entity’s internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of the accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.
3. I/We believe that the audit evidence I/we have obtained is sufficient and appropriate to provide a basis for my/our audit opinion.
4. I/We are also responsible for verifying the statement of particulars required to be furnished under section 44AB of the Income-tax Act, 1961 annexed herewith in Form No. 3CD read with Rule 6G (1) (b) of Income-tax Rules, 1962. I/ We have conducted my/our verification of the statement in accordance with Guidance Note on Tax Audit under section 44AB of the Income-tax Act, 1961, issued by the Institute of Chartered Accountants of India.”

# Others

1. All the information and explanations which to the best of my/our knowledge and belief were necessary for the purpose of my/our audit ***has not been provided by the assessee.***
2. ***Documents necessary to verify*** the reportable transaction ***were not made available.***
3. Proper ***Stock records are not provided*** by the assessee.
4. ***Valuation of closing stock is not possible.*** Stock has been taken valued and certified by the assessee.
5. ***Yield/percentage of wastage is not ascertainable.***
6. ***Records*** necessary to verify ***personal nature of expenses not maintained*** by assessee.
7. ***TDS returns could not be verified*** with the books of account.
8. Records produced for ***verification of payments through account payee check were not sufficient***.
9. Amount of ***expenses related to exempt income u/s 14A*** of Income-tax Act, 196 ***could not be ascertained.***
10. ***Creditors*** under Micro, Small and Medium Enterprises Development Act, 2006 are ***not ascertainable.***
11. ***Prior period expenses are not ascertainable*** from books of account.
12. Fair market value of shares ***u/s 56 (2) (viia)/(viib) is not ascertainable***.
13. ***Reports of audit carried by Excise/Service tax Department*** were ***not made available***.
14. ***GP Ratio is not ascertainable from the financial statements prepared*** by the assessee.
15. Information regarding demand raised or refund issued during the previous year under any tax laws other than Income-tax Act, 1961 and Wealth tax Act, 1957 was not made available.
16. Personal balances including Unsecured Loans, Sundry Debtors, loans & Advances are subject to confirmation.
17. Certain voucher for expenses are not properly supported.
18. Compliance with GST returns Filed are subject to reconciliation with the ledger balances.

# Specific

* 1. **For Clause No.21(d)(A) and (B)**

Though we have not noticed any transaction in excess of Rs.10000/- or Rs.35000/-(in case of plying, hiring or leasing goods carriages) which have been made otherwise than by an account payee Cheque or bank draft or electronic clearing system but the same cannot be verified as the necessary evidence is not in the possession of the Assessee. Further assessee certifies that the payment exceeding Rs.10000/- have been made by account payee cheques, bank draft or electronic clearing system only.

* 1. **For Clause 31(a),(b),(c),(d),(e) and for Clause 31(ba),(bb),(bc) and (bd)**

Though we have not noticed, any transaction where acceptance or re-payments of loans or deposit or receipt of amount under Sec.269ST in excess of limits as prescribed, has been done otherwise than by an account payee Cheque or bank draft or electronic clearing system, however the same cannot be verified as the necessary evidence is not in the possession of the Assessee. Further assessee certifies that the payment exceeding specified limit have been made by account payee cheques, bank draft or electronic clearing system only.

* 1. **For Clause 21** We have relied upon the statement of the proprietor that no personal expenses have been debited to Profit & Loss Account.

**Or *In respect of Clause 21(a).*** In the absence of clear information, it is not possible for us to verify that personal expenses have been debited to Profit and Loss Account or not. However, it has been intimated to us that no expenses have been debited in the Profit and Loss Account.

* 1. ***In respect of clause 21(d) and 31***. In the case of receipt/payment by way of cheque, drafts, etc. It is not possible for us to verify whether the receipt/payment have been made through crossed cheque instruments or not, as the necessary evidence is not in the possession of the assessee.
	2. **For Clause No. 21(b) & 34 -** We have verified the compliance with the provisions of Chapter XVII-B regarding deduction of tax at source and regarding the payment thereof to the credit of the Central Government in accordance with the Income Tax Act and Rules on test checks basis and concept of materiality. Such audit procedures did not reveal any non-compliance.
	3. ***In respect of Clause 22,*** as certified by the management, no party is registered under Micro, Small and Medium Enterprises Development Act, 2006 and it is not possible for us to cross verify this certificate of management.
	4. **For Clause No.35** - In the absence of quantitative records produced for our verification, quantitative details regarding stocks, purchases and sales etc. have not been given.
	5. ***For clause 13 (d), (e) & (f),*** the provisions of ICDS are not applicable being books are maintained on Cash Basis.
	6. **For Clause No.17,28,29,33,38 & 41:-**The figures and information furnished in the report have been compiled by the management and have been verified by us on such test checks as considered appropriate in the facts and circumstances of the case. Other than the items disclosed specifically in our report, we have relied on the management certificate and comments in the absence of any adverse feature came to our notice in the course of our audit.
	7. **For Clause No.4 -** Liability for registration under any Act other than those specified is denied by the management OR the detail under this clause has been given as per documents and information provided by the assesse
	8. **For Clause No.23 -** Details has been worked out on the basis of list of relatives and relationships confirmed by the management. Or the observation has been given on the basis of information and list provided by the assessee.
	9. **For Clause 25 -** No amount is chargeable to tax which has been so accounted in the books of account but not offered for taxation and we have not come across any amounts which have been received and for which clear evidence of taxability under Sec.41 is available but has not been offered to tax.
	10. ***In respect of Clause 26A, 31(ba), 31(bb), 31(bc) & 31(bd),*** since we are auditing the business accounts of the assessee. As such, any amount received in the personal account is outside the scope of our audit.
	11. **For Clause 28 -** No verification of the accounts of the business we have not come across and not been informed by the assessee of any shares acquired for an inadequate consideration.
	12. **For Clause 29A and B -** On verification of the accounts of the business we have not come across and not been informed by the assessee of any amount chargeable to tax under Sec.56 (2)(ix) or (x).
	13. **Clause 36A** for dividend under Sec.2(22)(e) we have verified the same in reference to various judicial pronouncements including that by Delhi High Court in re CIT v. Raj Kumar (2009) 318 (lTR) 462.
	14. **For Clause 16 -** Income as define u/s 2(24)(x) of the act being employees contributions to any provident fund, superannuation fund or any other fund for the welfare of the employees has not been included as the same is disclosed under Clause20(b).

Or ***In respect of clause 16(d),*** the observation under this clause has been given to the extent particulars provided by the assessee

* 1. ***In respect of Clause 33,*** regarding Chapter VI A or Chapter III, the detail under this clause has been given to the extent of information provided by the assessee.
	2. ***In respect of clause 34 and 42,*** the observation under this clause is given on the basis of facts and records produced before us. The books are checked on materiality basis.
	3. ***In respect of clause 29A, 29B and 36A,*** the observation under this clause has been given on the basis of information provided by the assessee.
	4. ***In respect of clause 40,*** the values of closing stock, material consumed & finished goods produced of the previous year are recasted to align with the current year values.
	5. **Clause 44-** We have been informed by the assessee that the information required under this clause has not been maintained by it in absence of any disclosure requirement thereof under the Goods and Service tax statute. It is not possible to determine break-up of total expenditure of entities registered or not registered under the GST, as necessary information is not maintained by the assessee in its books of accounts. Further the standard accounting software used by Assessee is not configured to generate any report in respect of such historical data in absence of any prevailing statutory requirement regarding the requisite information in this clause. In view of above we are unable to verify and report the desired information in this clause.

**Note:**

Whenever the assessee is not reporting or differently reporting in tax Audit report, Please ask him to give the reference of case laws, he relied upon.