Bengaluru Branch
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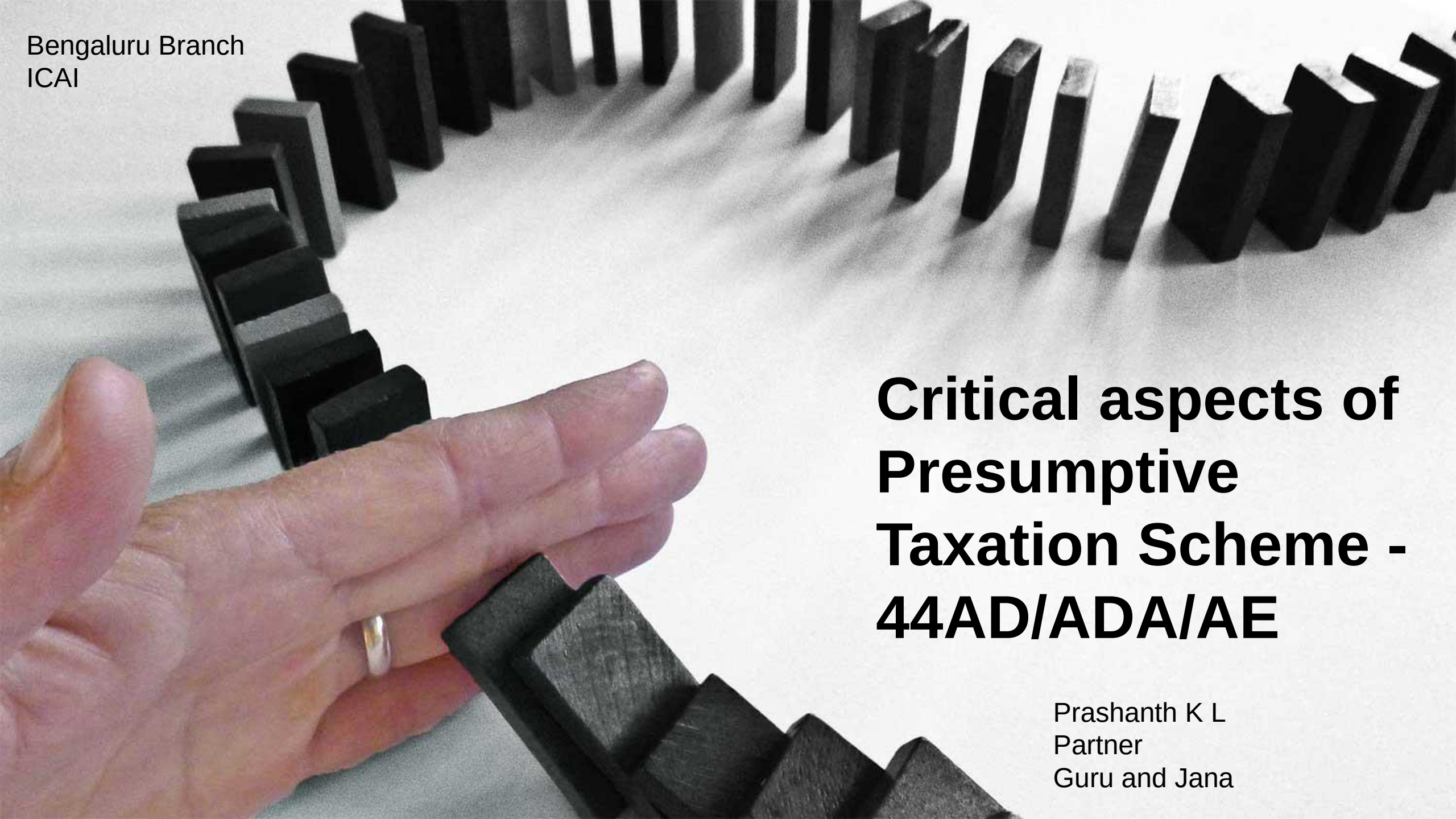

Critical aspects of Presumptive Taxation Scheme - 44AD/ADA/AE

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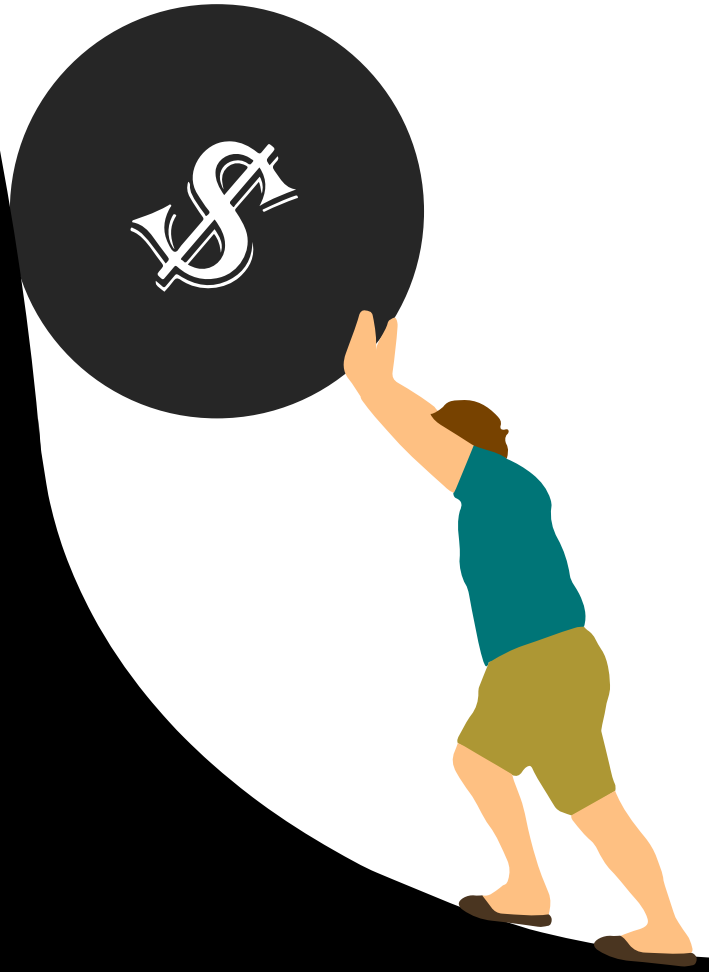
Provisions u/s 44AD

The section starts with, "**Notwithstanding anything to the contrary contained in sections 28 to 43C** ……."

The provisions of the section are applicable only when the following basic criteria have been fulfilled,



01 **Eligible assessee**
Assessee claiming benefit u/s 44AD must be an eligible assessee

02 **Not claimed specified deductions**
Assessee should not have claimed deductions u/s 10A/10AA/10B/10BA/80HH to 80RRB

03 **Eligible business**
Assessee involved in the non-eligible businesses cannot claim the benefits under provisions of Section 44AD

Definition of Eligible Assessee & Eligible Business

Eligible Assessee

1. Resident individual
2. Resident HUF
3. Resident partnership firm (excluding LLP)

Non-Eligible Businesses

1. Person carrying on business/ profession as u/s 44AA (Every person carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration, etc.)
2. Earning income by way of commission or brokerage
3. Earning from agency business
4. Earning from business of plying, hiring or leasing goods carriages
5. Turnover > Rs. 2 Crores

Key points u/s 44AD

01 Deductions u/s 30 to 38

- ✓ Any deduction allowable under the provisions of sections 30 to 38 shall, be deemed to have been already given full effect to and no further deduction under those sections shall be allowed.

02 Advance Tax

- ✓ When opting for section 44AD, advance tax is only required to be paid on or before 15th March and not required to be paid by the 15th of June, 15th of September and 15th of December as per section 211.

03 Maintenance of books of accounts

- ✓ Assessee is exempted from maintaining books u/s 44AA and tax audit u/s 44AB unless declared income is less than 6% or 8%.

04 Non-eligibility to opt 44AD

- ✓ If after declaring profits on presumptive basis u/s 44AD, say for AY 2022-23, non-declaration of profits on presumptive basis for any of the 5 successive AYs thereafter i.e. from AY 2023-24 to AY 2027-28 would disentitle the assessee from claiming profits on presumptive basis for 5 successive AYs subsequent to AY relevant to PY of such non-declaration.

- ✓ Example : If assessee does not the declare profits as per 44AD for AY 2024-25, then disentitled to claim provisions u/s 44AD from **AY 2025-26 to 2029-30 (5 Years)** and mandatory to maintain books of accounts from **AY 2024-25 to 2029-30 (6 Years)**, if income > Basic Exemption limit.

Interplay between 44AA, 44AB & 44AD

- As per 44AA(2)(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:

- As per 44AB(e) - carrying on the business shall, if 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,

What is 44AD(4)?

- As per 44AD(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).

- As per 44AD(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.

Combined analysis 44AA/44AB/44AD

- On combined analysis of 44AA(2)(iv), 44AB(e) and 44AD(4) we can interpret that u/s 44AB(e) those assessees are required to get their books audited whose;

- Total income exceeds basic exemption limit
- Earlier assessee has declared income u/s 44AD in any of the previous year
- Even being eligible, assessee do not declare income as per sec 44AD in any of next 5 A.Ys in which he first declared income as per sec 44AD of the Act.

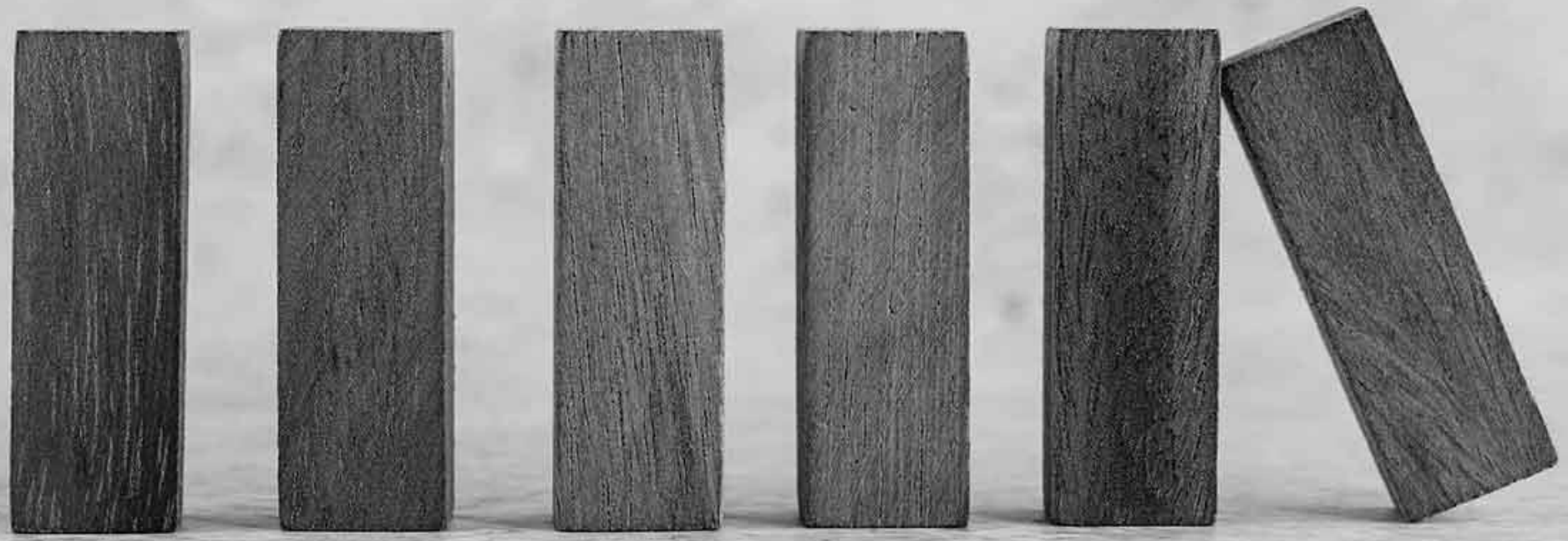
- We will divide the study in following 4 parts

1. When business turnover is up to 1 crore
2. When business turnover is exceeding Rs.1 crore but up to Rs.2 crore
3. When business turnover exceeding Rs.2 crore but up to Rs.10 crore
4. When business turnover exceeding Rs. 10 crore

Case	Turnover	Whether TI below exemption limit	Whether cash receipts/payments up to 5% of total receipts/payments	Whether opted for 44AD in any of the preceding year	Rate of Profit declared	Whether required to maintain books u/s 44AA(2)	Whether required to get books of accounts audited
A(a)	Up to 1Cr	Yes	Irrelevant	No	8%	Note-1	No
A(b)	Up to 1Cr	No	Irrelevant	Yes	4%	Yes	Yes
A(c)	Up to 1Cr	Yes	Irrelevant	No	4%	Note-1	No
A(d)	Up to 1Cr	No	Irrelevant	Yes, But opted out from 44AD in any of the preceding 5 years	10%	Yes	Yes-44AB(e)
A(e)	Up to 1Cr	Yes	Irrelevant	Yes	4%	Note-1	No
B(a)	Rs.1-2 Cr	No	Yes	No	5%	Yes	No [proviso to 44AB(a)
B(b)	Rs.1-2 Cr	Yes	No	Yes	5%	Yes	Yes, 44AB(a)
B(c)	Rs.1-2 Cr	No	No	Yes, But opted out from 44AD in any of the preceding 5 years	10%	Yes	Yes, 44AB(e)
B(d)	Rs.1-2 Cr	Yes	No	Irrelevant	5%	Yes	Yes, 44AB(a)
C(a)	Rs.2-10 Cr	Irrelevant	Yes	Irrelevant	Irrelevant	Yes	No, Proviso to 44AB(a)
C(b)	Rs.2-10 Cr	Irrelevant	No	Irrelevant	Irrelevant	Yes	Yes, 44AB(a)
D	Above 10 Cr	Irrelevant	Irrelevant	Irrelevant	Irrelevant	Irrelevant	yes

Note-1: *In case of individuals and HUF if turnover is up to Rs.25 Lacs and profits are up to Rs. 2.5 Lacs in P.Y. and for firm turnover is up to Rs.10 Lacs and profits up are to Rs.1.2 Lacs, maintenance of books is not mandatory. Otherwise, books of accounts are to be maintained*

Critical issues u/s 44AD



Does the AO have the power to assess more than the returned income, if the income declared by the assessee is greater than or equal to 8%?

- No. AO does not have the power to assess anything more than the returned income if the returned income is > 8%.
- The section has been amended for the benefit of the assessee.
- The language of section of section 44AD(1) requires claims to have been made by an assessee for returning higher income.
- If there is no claim made by assessee in return for higher income, there is no higher income.
- The word "Claim" signifies the right of assessee, and it is not an obligation of the assessee.
- The distinction between Right and obligation is very necessary here.

The same can be understood from the case law, Abhi Developers v. ITO [2007] 12 SOT 444 (Ahd).

Can AO make separate additions over and above the 8% income declared by the assessee u/s 44AD?

- If the assessee has declared income at a rate greater than the prescribed limit of 8% no further addition can be made by the AO.
- If say net profit rate of 8.15% applied by assessee, it took care of every addition. Separate addition made by authorities over and above said rate is required to be deleted.

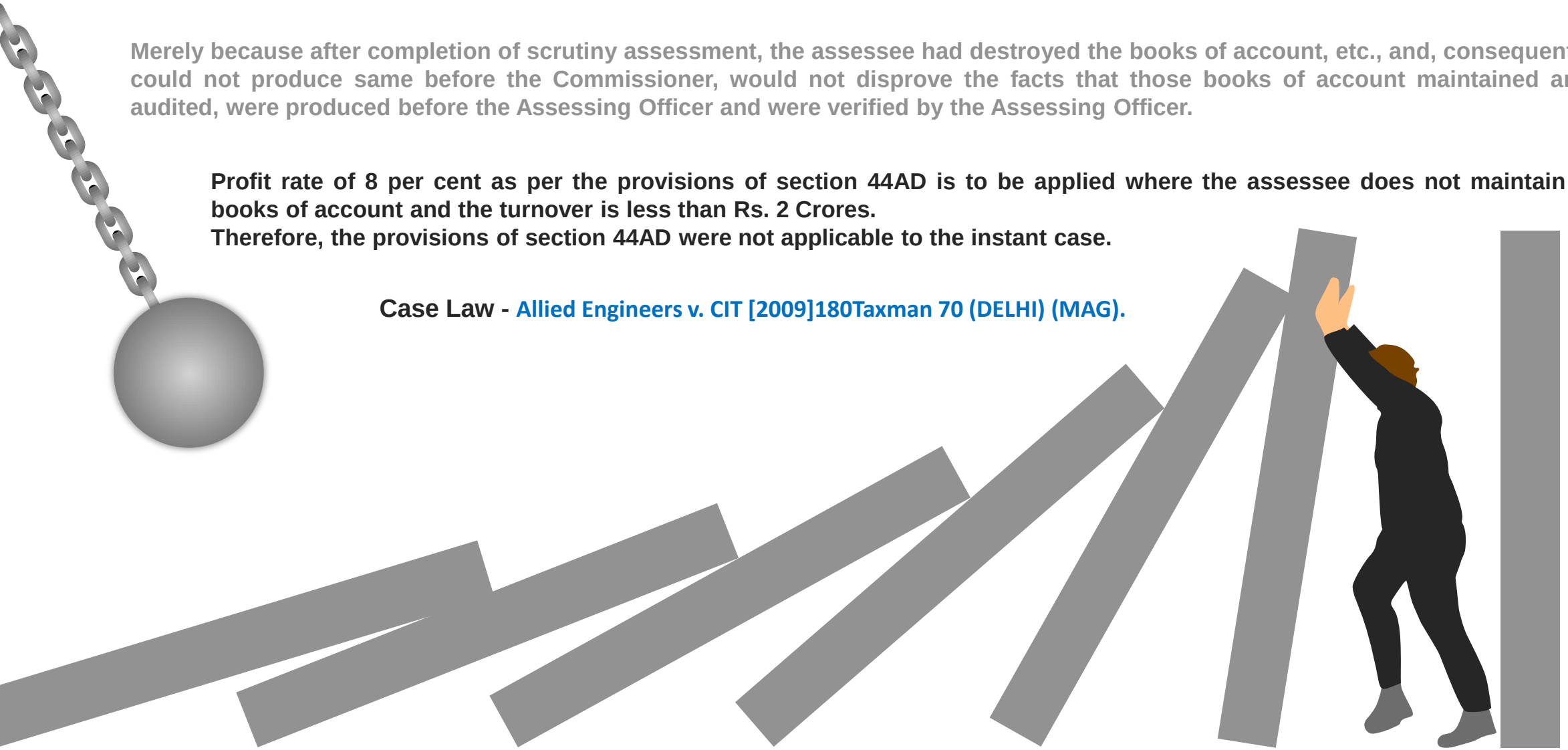
The same can be understood from the case law, Kangiri Contractor v. ITO [2011] 45 SOT 1 (Jodh.)

Can AO assess the income of the assessee u/s 44AD even when the turnover exceeds Rs. 2 Crores and such books were subject to audit u/s 44AB, but which could not be produced to the AO later due to destruction or mutilation?

Merely because after completion of scrutiny assessment, the assessee had destroyed the books of account, etc., and, consequently, could not produce same before the Commissioner, would not disprove the facts that those books of account maintained and audited, were produced before the Assessing Officer and were verified by the Assessing Officer.

Profit rate of 8 per cent as per the provisions of section 44AD is to be applied where the assessee does not maintain books of account and the turnover is less than Rs. 2 Crores.
Therefore, the provisions of section 44AD were not applicable to the instant case.

Case Law - Allied Engineers v. CIT [2009]180Taxman 70 (DELHI) (MAG).



Whether current year losses and brought forward losses can be set off against deemed income?

Sec 44AD overrides sec 28 to 43C but does not override chapter VI. Therefore, current year losses & brought forward losses can be set off against deemed income.

The same can be understood from the case law, **DCIT v. Sunil M. Kankariya [2008] 298 ITR (AT) 205(ITAT-Pune)**

Whether AO can make additions in the declared income of the assessee if assessee cannot explain discrepancies in books?

No.
As per the following case law, AO cannot make additions in the declared income of the assessee on the grounds that assessee was not able to explain the discrepancies in the books of accounts.

As per the below mentioned case law, the assessee disclosed income u/s 44AE that he possessed only 8 trucks. AO made certain additions in the income of the assessee on the ground that the assessee has not been able to reply as to how he has been his meeting daily expenses.

AO made the argument that even if, Section 44AE of the Act is made applicable, it was for the assessee to explain the excess income found. Assessee argued against this that since the assessee had got eight trucks, there was no question of making any addition at the hands of the assessee from other sources

The very purpose and idea of enactment of such provision like Section 44AE of the Act is to provide hassle free proceedings. The presumptive income, which may be less or more, is taxable. Such an assessee is not required to maintain any account books. This being so, even if, its actual income in a given case, is more than income calculated as per sub-section (2) of Section 44AE, cannot be taxed.

Thus, it follows the query of the Assessing Officer as to how the assessee met his daily expenses, there being no withdrawal and conclusion of additional income was uncalled for.

The facts of this judgement can also be applied to 44AD/44ADA and similarly, AO cannot make any additions.

The same can be understood from the case law pronounced by Allahabad High Court, CIT v. Nitin Soni [2012] 207 Taxman 332 (All.).

Advanced Scenarios

Whether Partner is eligible for 44AD on Remuneration/Interest received from Firm?

Can disallowances be made as per provisions of Section 43B overriding the provisions of u/s 44AD?

Is the assessee required to maintain books of accounts u/s 44AD?

A reference can be made to the case law of,

Anandkumar v. CIT[2021] 278 Taxman 342 (Mad.).

A refence can be made to the case law of,

Good Luck Kinetic v. ITO (2015)

Let’s discuss some illustrations

Illustration 1

Mr. Jay is an interior decorator. His gross receipts from this profession during the previous year 2012-13 were Rs. 84,48,848. He wants to declare income as per the provisions of section 44AD. In this case will he be liable to maintain the books of account in respect of aforesaid profession?

Illustration 2

Mr. Kaushal is running a provision shop. The turnover of the shop during the previous year 2012-13 was Rs. 25,84,848. He wants to adopt the provisions of section 44AD for the above business. Apart from the business of running a provision shop, he is also engaged in the business of plying, hiring or leasing goods carriages. He owns 5 heavy goods vehicles. His actual income from the goods transportation business is Rs. 3,000 per month (i.e., less than Rs. 5,000 per month or part thereof) per heavy goods vehicle and he wants to declare his actual income of Rs. 3,000 for this business. In this case will he be liable to maintain the books of account in respect of aforesaid businesses?

Illustration 3

SM Corporation, a partnership firm, is running a Colour Dying Press in its own premises. The turnover of the press during the previous year 2022-23 was Rs. 84,48,848 and it declared income as per the provisions of section 44AD. After computing the income @ 8% of such turnover of Rs. 84,48,848, the firm wants to claim further deduction on account of following items:

- Salary paid to accountant: Rs. 84,000
- Expenditure on account of insurance of press building: Rs. 25,200
- Depreciation on press building: Rs. 1,84,000
- Depreciation on computer: Rs. 48,400
- Remuneration paid to its partners: 84,000

Can the firm claim deduction on account of above expenditure?

Illustration 4

Mr. Dawar, having turnover of Rs. 70,00,000 declared profit at 8% amounting to Rs. 5,60,000. He has not deposited employer’s share of EPF of Rs. 25,000 up to due date of return filing. Also, he has not paid bonus amounting to Rs.40,000 to his employees. Whether addition can be made u/s 43B if Mr. Dawar opts for sec 44AD?

Illustration 5

Mr. Saurav declaring income u/s 44AD has made payment of interest to non-resident. However, no TDS has been deducted. Whether the expense will be disallowed u/s 40(a)?

Illustration 6

Mr. X has gross receipts of Rs. 1,00,00,000 for each of the PYs, 2019-20, 2020-21, 2021-22 & 2022-23. He has opted for presumptive taxation u/s 44AD for all of the above mentioned PYs and also filed his ROI in the same lines. In PY 2022-23 he bought an apartment for Rs. 90,00,000, whereas his declared income as per provisions u/s 44AD was only Rs. 8,00,000. AO raise a query regarding the source of income by which such property was purchased.

How can this scenario be tackled by the assessee?

Illustration 7

Mr. A has opted for presumptive taxation u/s 44AD. He has earned an income of Rs.70,00,000 from his retail business and has also earned an income of Rs. 43,000 by way of commission. Assessee wants to opt for section 44AD with respect to the income of Rs. 70,00,000 and is ready to get income of Rs. 43,000 audited u/s 44AB.

Can this stand be taken by the assessee?

Illustration 8

Assessee Mr. X has opted for 44AD and earned the following incomes from eligible businesses as u/s 44AD,

Business	Turnover (Rs.)	Profit Earned (Rs.)	% Income declared for tax
Business 1	1,00,00,000	20,00,000	20%
Business 2	80,00,000	2,00,000	2.5%
Total	1,80,00,000	22,00,000	12.22%

Assessee wants to declared income of 20% of business 1 u/s 44AD and opt for tax audit u/s 44AB for the income of business 2 as the income declared is less than 8% of the turnover.

Can the assessee take this stand and is it valid?

Sec 44ADA

Eligible Assessee

Every Resident Person engaged in :-

- Legal
- Medical
- Engineering
- Architectural profession
- Accountancy profession
- Technical Consultancy
- Interior decoration
- Others as prescribed in Rule 6F.

Limit

- Total Gross Receipts do not exceed ₹50 Lakhs

Income

- 50% of Gross Receipts

  Or

- A sum higher than above as claimed to have been earned by assessee.

Other Provisions

- All deductions u/s 30 to 38 shall be deemed to be allowed.
- Depreciation shall be deemed to be allowed.
- If Income declared less than the specified limit & Income exceeds maximum amount not liable to tax, then Books need to be maintained and to be audited.

Profession specified u/s. 44AA(1) Vs Code prescribed – Medical – Part 1

Sector	Sub-Sector	Code	44AD	44ADA	44AE
HEALTH CARE SERVICES	General hospitals	18001	X	√	X
	Speciality and super speciality hospitals	18002	X	√	X
	Nursing homes	18003	X	√	X
	Diagnostic centres	18004	X	√	X
	Pathological laboratories	18005	X	√	X
	Independent blood banks	18006	√	X	X
	Medical transcription	18007	√	X	X
	Independent ambulance services	18008	√	X	X
	Medical suppliers, agencies and stores	18009	√	X	X
	Medical clinics	18010	X	√	X

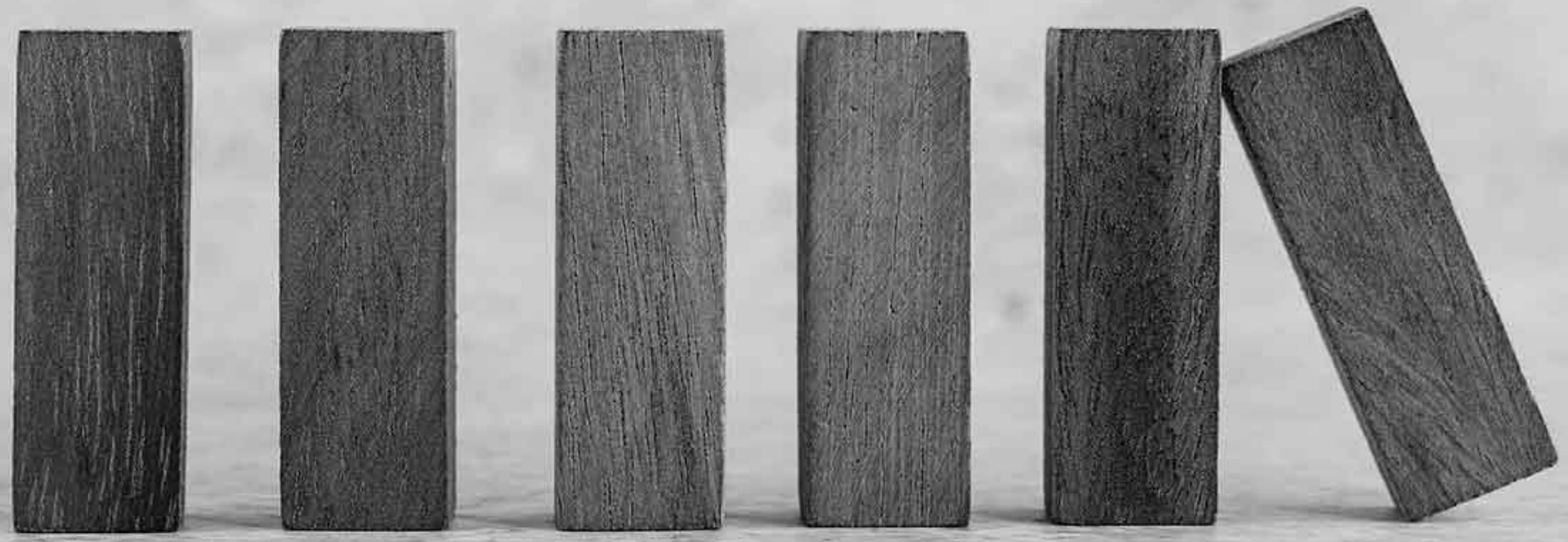
Profession specified u/s. 44AA(1) Vs Code prescribed – Medical – Part 2

Sector	Sub-Sector	Code	44AD	44ADA	44AE
HEALTH CARE SERVICES	Dental practice	18011	X	√	X
	Ayurveda practice	18012	X	√	X
	Unani practice	18013	X	√	X
	Homeopathy practice	18014	X	√	X
	Nurses, physiotherapists or other para-medical practitioners	18015	X	√	X
	Veterinary hospitals and practice	18016	X	√	X
	Medical education	18017	X	√	X
	Medical research	18018	X	√	X
	Practice of alternative medicine	18019	X	√	X
	Other healthcare services	18020	X	√	X

Profession specified u/s. 44AA(1) Vs Code prescribed – Information technology

Sector	Sub-Sector	Code	44AD	44ADA	44AE
COMPUTER AND RELATED SERVICES	Software development	14001	X	√	X
	Other software consultancy	14002	X	√	X
	Data processing	14003	X	√	X
	Database activities and distribution of electronic content	14004	X	√	X
	Other IT enabled services	14005	X	√	X
	BPO services	14006	X	√	X
	Maintenance and repair of office, accounting and computing machinery	14008	X	√	X
	Cyber café	14007	√	X	X
	Computer training and educational institutes	14009	√	X	X
	Other computation related services n.e.c.	14010	√	X	X

Points to be noted u/s 44ADA



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

- Remuneration from partnership firm not to be included in T/O or Gross receipts for computing threshold to get account audited u/s 44AB

- In case of *Perizad Zorabian Irani Vs PCIT* (Bombay HC dt. 09-Mar-2022), assessee was an actor by profession and also a partner in two partnership firms & filed ROI the same was treated as invalid by A.O as audit was not done.

- Assessee contended that remuneration & Interest from Partnership firm should not be included in Gross receipts for Sec 44AB.

- High court held that the taxpayer was not carrying on business, and the remuneration and interest received by the taxpayer from the partnership firm could not be termed as its turnover. Therefore, could not be treated as gross receipt of the taxpayer.

- Considering the above case law, it can be construed that remuneration & interest should not be considered in Gross receipts u/s 44ADA.

Maintenance of books of account

01 The books of account are not required to be maintained by assessees who opt to offer income under presumptive taxation.

02 Neither Sec 44AA or 44ADA provides for non maintenance of Books if Sec 44ADA is opted.

03 However, FAQs issued by Dept. states that Books are not required to be maintained if Sec 44ADA is opted.

04 Memorandum to the Finance Bill, 2016 provides that an assessee opting for Section 44ADA would not be required to maintain books of account under Section 44AA(1), the same has not been brought out clearly in the Section 44AA

05 One may rely upon the legislative intent & clarification by FAQ and need not maintain books u/s 44AA if Sec 44ADA is followed.

Deduction of partners' remuneration and interest

- Sub-section 2 of Section 44AD and 44ADA provides that all deductions under section 30 to 38 would be deemed to have been allowed and no further deduction under the said sections would be allowable

- The issue would arise is whether a deduction under section 40(b) regarding the salary and interest of partners can be claimed ?

- It would therefore be necessary to go through the legislative history regarding the allowability of deduction under Section 40(b) with regard to Sections 44AD and 44AE which pari-materia are similar to Section 44ADA

- An assessee can argue that only deductions under Sections 30 to 38 have been specifically deemed to have been allowed but not under other sections and hence, the deduction of partners' salary and interest under section 40(b) is to be allowed.

- However, if this argument holds good then the effect of, disallowances u/s 40, 40A, 41, 43A, 43B, and 43C also need to be given effect to.

- In the case of ITO v. Devi Singh Solanki (99 TTJ 890) in the context of addition made under Section 69 when income was offered under presumptive scheme of Section 44AD, it held that Section 44AD has limited overriding effect only over Sections 28 to 43C; but not over the other sections of the Act. Hence, the argument put forward in the above para may not sustain. (i.e., Deduction u/s 40(b) cannot be made).

Other Points

Capital Gains

44ADA overrides only Sec 28 to 43C, So when Sec 50 is triggered (Sale of asset from block) it is taxable as Capital Gains only.

Proviso to 44AE(3)

The said proviso provides allowance of Salary & interest paid from Income under Sec 44AE, but the same proviso is **not** available in 44AD/ADA.

Illustration to Sec 44ADA

Dr. Ram is Resident Individual having following information
Professional receipts – ₹40 Lakhs
Turnover from Medical store - ₹1 Crore

Ans:-

Dr. Ram is eligible for presumptive taxation
Professional receipts – under Sec 44ADA Income – 40L * 50% = 20L
Income from Medical store – under Sec 44AD Income – 1Cr * 8/6%

Note:
1. For the purpose of sec 44AB T/o or gross receipts to be checked separately
2. Sec 44AD(6)(i) states that Sec 44AD is not applicable for a person carrying on profession u/s 44AA(1), but Form allows assessee to opt for Sec 44AD & 44ADA.

Sec 44AE

Assessee	Income	Deemed deduction	Other Provisions
Sec 44AE(1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an assessee Who owns not more than 10 goods carriages at any time during the previous year. AND who is engaged in the business of plying, hiring or leasing such goods carriages,	**Sec 44AE(2)** **Heavy Vehicle :-** ₹1,000 per ton every month or part of a month* during which such vehicle is owned by assesee. **Other than Heavy Vehicle :-** ₹7,500 per ton every month or part of a month during which such vehicle is owned by assesee. OR An amount claimed to have been actually earned from such vehicle Which ever is Higher	**Sec 44AE(3) & (4)** Deduction u/s 30 to 38 shall be deemed to have been already given full effect Provided :- Assessee is a firm, Salary & Interest to partners shall be allowed from Income computed u/s 44AE, but subject to Sec 40(b) limits. The WDV of any asset shall be deemed to have been calculated as if the assessee had claimed and had been allowed. (Deemed Depri.)	**Sec 44AE(5), (6) & (7)** Sec 44AA & 44AB shall not apply & Income from said business shall not be included in calculation of monetary limit u/s 44AA/AB If Assessee claimes lower profit than required u/s 44AE then he must ➢ Maintain books as per 44AA ➢ Get it audited u/s 44AB Sec 44AE(6) relevant for AY 1997-98 or earlier

*on ***gross vehicle weight*** or ***unladen weight***

Heavy goods vehicle IT Act Vs Motor Vehicle Act

As per Income Tax Act:

- "Heavy goods vehicle" means any goods carriage, the gross vehicle weight of which exceeds 12,000 kilograms.

As per Motor Vehicle Act:

- "Heavy Goods Vehicle" means any goods carriage, the gross vehicle weight of which, or a tractor or a road-roller, the unladen weight of either of which, exceeds 12,000 kilograms.

Clarification of CBDT - F.No.225/233/ 2019/ITA-II dt 14-08-2019

- All goods carriage vehicle whose gross vehicle weight exceeds 12,000 kilograms, the profits and gains from each goods carriage for the purposes of section 44AE of the Act shall be at the rate of Rs. 1000/- per ton of gross vehicle weight for every month or part of the month.

- However, in respect of a tractor or a road-roller. where the gross vehicle weight is not applicable, and unladen weight exceeds 12,000 Kilograms. the profits and gains from each goods carriage for the purposes of section 44AE of the Act shall be at the rate of Rs. 1000 per ton of unladen weight for every month or part of the month

Other Definitions as per Sec 44AE & Motor Vehicle Act

- “Goods carriage" means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods.

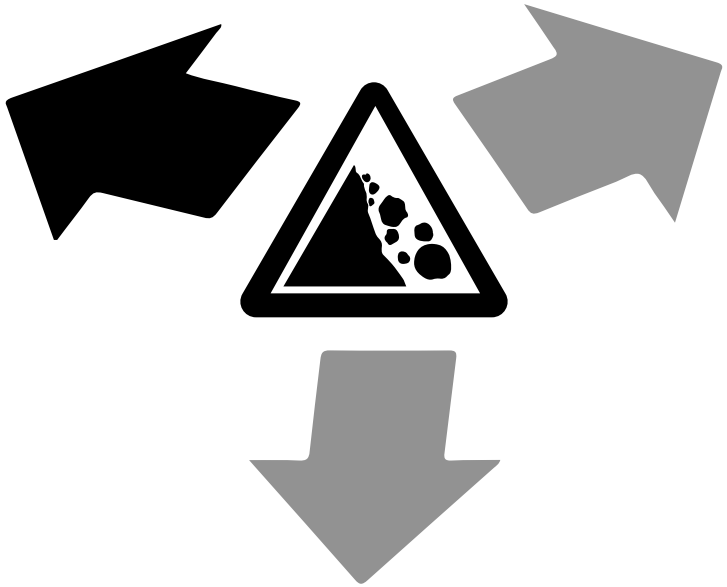
- “Gross vehicle weight" means in respect of any vehicle the total weight of the vehicle and load certified and registered by the registering authority as permissible for that vehicle;

- “Unladen weight" means the weight of a vehicle or trailer including all equipment ordinarily used with the vehicle or trailer when working, but excluding the weight of a driver or attendant; and where alternative parts or bodies are used the unladen weight of the vehicle means the weight of the vehicle with the heaviest such alternative part or body

Analysis of Sec 44AE

All type of assessees can avail the benefit of this Sec including LLP, AOP, BOI, Company. There is not turnover restrictions under this section

Assessee owns not more than 10 vehicles



It has restrictions on the number of vehicles owned by the assessee at any time during the previous year.

- Status of the vehicles taken on lease or hire- to include or Exclude ? (Form vs Act – owned, hired or leased)

Analysis of Sec 44AE code prescribed

Sector	Sub-Sector	Code	44AD	44ADA	44AE
RENTING OF MACHINERY	Renting of land transport equipment	08001	√	X	√
TRANSPORT & LOGISTICS SERVICES	Packers and movers	11002	√	X	√
	Freight transport by road	11008	√	X	√
	Forwarding of freight	11010	√	X	√
	Receiving and acceptance of freight	11011	√	X	√
	Cargo handling	11012	√	X	√
	Other Transport & Logistics services n.e.c	11015	√	X	√

Illustration

Question :

M/s XYZ Carriers is a firm owning 10 goods carriages (gross vehicle weight less than12 tons)
During FY 2020-21,

- Its T/O – ₹112 lakhs
- Its Net profit - ₹11 lakhs (before interest and salary to Partners)

Solution :

As per Sec 44AE

- Estimated net profit = ₹7,500 per month * 12 mts * 10 vehicles = ₹9,00,000/-
- Actual Net profit = ₹11,00,000/- (which ever is higher)
- Therefore, Income u/s 44AE is ₹11,00,000/-
- Further Interest & Salary to partners can be claimed subject to Sec 40(b).

Illustration

Question :

M/s XYZ Carriers is a firm owning 10 goods carriages (gross vehicle weight less than12 tons) During FY 2020-21,

- Its T/O – ₹112 lakhs
- Its Net profit - ₹8 lakhs (before int and salary to Partners)

Solution :

As per Sec 44AE

- Estimated net profit = ₹7,500 per month * 12 mts * 10 vehicles = ₹9,00,000/-
- Actual Net profit = ₹8,00,000/- (which ever is higher)
- Therefore, Income u/s 44AE must be ₹9,00,000/-
- But assessee can claim lower Income (i.e., 8,00,000/-) provided he has maintained Books as required u/s 44AA & get it audited u/s 44AB.

Note: There is no requirement that Income should cross maximum amount not chargeable to tax unlike in 44AD & 44ADA. The movement assessee declares lower income than required u/s 44AE he must maintain books & get it audited.

Presumptive cases – comparative study

Particulars	Sec 44AD	Sec 44ADA	Sec 44AE
Type of assessee	INDL. HUF, Firm (Other than LLP) – all residents	Resident assessee	No restrictions
When %/sum not offered, Sec 44AB applies	Only when income exceeds basic limit & Ss (4) applies	When income exceeds basic limit	Whether or not income exceeds basic limit
In case of firm, allowability of Partners' salary & interest	Deemed to be allowed	Deemed to be allowed	From the presumptive income, claim can be made

THANK YOU