



# THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(SETUP BY AN ACT OF PARLIAMENT)

## BHUJ BRANCH OF ICAI (WIRC)

KATIRA COMPLEX, SANSKAR NAGAR RD, SANSKAR NAGAR, BHUJ, GUJARAT 370001

### E-NEWSLETTER



## CA DAY

1ST JULY 2024

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# Chairperson's Communique



Another productive and dynamic month has gone by that overflowed with activities aimed towards professional and personal development of our members.

- During the month of June, the Managing Committee Members conducted CPE Seminar on **Management lesson from Mahabharat by Dr. Kanishk Shah** on account of **World Youth Skills Day Celebration**.
- Managing Committee of Bhuj Branch had organised **CA Day Celebration with tree plantation in the morning and Bollywood Night in the evening**.
- Managing Committee of Bhuj Branch had also organised **Felicitation Event for Newly Qualified Chartered Accountants**. The same is covered by local daily newspaper.

Further in coming month branch is going to organize CPE seminars on Discussion of Budget 2024 & How to use Artificial Intelligence in Practice.

I take this occurrence to remark a sense of gratefulness to the faculties for enriching the members with their knowledge and branch Managing Committee for their joint participation.

**With Regards,**  
**CA Jagdish Hirani**  
**Chairperson – Bhuj Branch of WIRC of ICAI.**

## MANAGING COMMITTEE

**CA Jagdish Hirani**  
Chairperson

**CA Bharghav Shankarwala**  
Vice Chairperson & Treasurer

**CA Manisha Joshi**  
Secretary

**CA Hardik N. Thakkar**  
WICASA Chairperson

**CA Vijay Thacker**  
Immediate Past Chairperson

**CA Zahir Memon**  
Past Chairperson

# DECODING OF PRESUMPTIVE TAXATION SCHEME U/S 44AD AND WHETHER TAX AUDIT IS REQUIRED IN CASE OF BUSINESSES WHERE PROFIT IS LESS THAN 6% OR 8%?

CA SACHIN MEHTA (M. Com., F.C.A., DISA (ICAI))

After successful conclusion of the Income Tax Return (ITR) phase for FY 2023-24, professionals now have geared up for the Audit phase.



In this article, I have not explained basic things related to Section 44AB as well as Section 44AD. To the best of my opinion, the purpose of this article is to guide about the principles and its importance in respect of tax audit specifically related to our profession and its professional ethics.

This year in particular, there had been excessive concerns about applicability of audit in one peculiar case i.e. whether tax audit is required for a business merely because profit is less than 6% or 8%, even when proper books of accounts are maintained, turnover is within the prescribed limit of section 44AB and other provisions of section 44AB are not attracted?

In my opinion as on date, tax audit is NOT required in such case merely on account of profit being less than prescribed percentage..! How..???

A detailed discussion is made hereunder as to how tax audit is not attracted in such case.

## **Explanations to applicability of Section 44AB & 44AD:**

Tax Audit u/s 44AB is applicable to an eligible assessee who opts for section 44AD benefit for Assessment Year 2017-18 or subsequent years and then opts out from Section 44AD in violation of Section 44AD(4) and whose total income exceeds the maximum amount not chargeable to tax - New clause (e) of section 44AB.

Section 44AD(1) prescribes that an eligible assessee engaged in an eligible business, a sum equal to 8% or 6% of the total turnover or gross receipts in the previous year shall be deemed to be the profits or gains of such business is chargeable to tax.

Section 44AD(4) mainly postulates two conditions :

(1.) an eligible assessee must declare profit for any previous year in accordance with the provisions of section 44AD(1) and,

(2.) The assessee doesn't declare profit in accordance with the provisions of sub-section (1) of Section 44AD in any 5 succeeding years.

If above two conditions are satisfied, then such assessee shall not be eligible to claim the benefits of Section 44AD for next five consecutive assessment years subsequent to the assessment year in which profit was not declared as per section 44AD as given in condition (b) above.

**Note: Section 44AD(4) is applicable to eligible businesses only and not to any specified professionals providing professional services. It means that specified professionals having turnover below threshold limit can go for audit or for section 44ADA as per their choice in any years.**

One view regarding section 44AD is that section 44AD is a special provision and that section 44AD(4) has been substituted and the same has been covered under new clause (e) of 44AB and the reference to section 44AD having been omitted from clause (D) of section 44AD, the assessee will not be covered under section 44AD.

The second view seems better in terms of the new first proviso inserted in section 44AB by the Finance Act, 2017 with effect from Assessment Year 2017-18 that the assessee can declare profits or gains for the previous year in accordance with the provisions of sub-section (1) of section 44AD in case of total sales or gross receipts in a previous year does not exceed two crore rupees.

**Examples relating to section 44AD(4):**

The assessee has opted for section 44AD, let's say, in AY 2019-20 first time. In AY 2020-21, assessee's total turnover or gross receipts crossed Rs. 2 crores and audit u/s 44AB(a) has been conducted, whether can it be consider that assessee has opted out from section 44AD? The Answer is - Big "NO" (Reason - Section 44AD is not applicable for total turnover or gross receipts exceeding Rs. 2 crores. Hence, it is considered that assessee has not opted out from section 44AD voluntarily but opted out by virtue of section 44AB only.

In above example, if assessee doesn't have business income in AY 2020-21, whether can it be considered that assessee has opted out from section 44AD? The Answer is - Big "NO" (Reason - Since the assessee doesn't have business income, he was not eligible to claim section 44AD. Hence, it is considered that the assessee has not opted out from section 44AD.

For the purpose of counting of next five assessment years **for the purpose of maintaining the chain of section 44AD** following the assessment year in which **section 44AD has been opted**, the year in which scenarios mentioned in both the above examples should also be considered.

If the assessee has opted for section 44AD for consecutive five assessment years, then in the 6th year, assessee has a choice to go either for section 44AD or for section 44AB as if it is the first year of business. (Assuming that the turnover is below 2 Crores in 6th year).

Similarly, for the purpose of counting of next five assessment years **for the purpose of audit** following the assessment year in which **section 44AD has been opted out**, the year in which scenarios mentioned in both the above examples should also be considered.

**Let's understand with summarised examples for better clarity:**

SN	Assessee	T/o in AY 2022-23 (1st yr. of business)	T/o in AY 2023-24	T/o in AY 2024-25	Conclusion for AY 2024-25
1	Individual / HUF / Partnership Firm	5 Lacs (Maintain BOA and filed ITR)	45 Lacs (Maintain BOA and filed ITR)	90 Lacs (Maintain BOA and having loss)	No Audit required as assessee had never opted in for section 44AD, they can continue to show profit below 8%/6% as there is no section prescribed for audit having t/o below 1 cr. (Except in case of violation of 44AD(4) (As per below Important Note)
2	Individual / HUF / Partnership Firm	5 Lacs (Maintain BOA and filed ITR)	45 Lacs (Maintain BOA and filed ITR)	1.20 Crores (Having Loss)	Audit u/s 44AB(a), as turnover goes beyond the threshold limit of 1 crore. As section 44AB(a) is not talking about basic exemption limit criteria.
3	Individual / HUF / Partnership Firm	5 Lacs (Opted 44AD and filed ITR)	45 Lacs (Maintained BOA and filed ITR irrespective of profit percentage)	90 Lacs (Assumed that TI > Maximum amount not chargeable to tax)	Audit u/s 44AB(e), compulsory audit for five consecutive years including AY 2024-25 irrespective of turnover as opted out from 44AD in AY 2023-24.

5	Individual / HUF / Partnership Firm	5 Lacs (Opted 44AD and filed ITR)	45 Lacs (Maintained BOA and filed ITR irrespective of profit percentage)	1.20 Crores (Irrespective of profit or loss)	Audit u/s 44AB(a), compulsory audit for five consecutive years including AY 2024-25 irrespective of turnover as opted out from 44AD in AY 2023-24.
6	Individual / HUF	1.45 Crores (Opted 44AD and filed ITR)	1.90 Crores (Audit u/s 44AB(a))	84 Lacs (Having profit)	Audit u/s 44AB(e), compulsory audit for five consecutive years including AY 2024-25 irrespective of turnover as opted out from 44AD in AY 2023-24.
7	Individual / HUF	1.45 Crores (Opted 44AD and filed ITR)	1.90 Crores (Audit u/s 44AB(a))	84 Lacs (Having loss)	No Audit u/s 44AB(e) as total income is below basic exemption limit, even if falling under compulsory audit for five consecutive years including AY 2024-25 irrespective of turnover as opted out from 44AD in AY 2023-24.
8.	Individual / HUF / Partnership Firm	65 Lacs (Maintain BOA and filed ITR)	1.90 Crores (Audit u/s 44AB(a))	84 Lacs (Irrespective of profit or loss)	No Audit required as assessee had never opted in for section 44AD, they can continue to show profit below 8%/6% as there is no section prescribed for audit having t/o below 1 cr. (Except in case of violation of 44AD(4) (Asper below Important Note)

- In Serial No.1 of above table, remember that if assessee is having loss in any year or years, then also audit would not be applicable.
- Section 44AB(a) always prevail over section 44AB(e). It means that when the total turnover exceeds the threshold limit of 1 crore, audit should be conducted u/s 44AB(a) only, without checking whether the total income is above or below basic exemption limit.
- One of the Assumption in above examples is that cash receipts and cash payments are more than 5% of total receipts and total payments respectively. (proviso to Section 44AB(a))

**Important Note:**

New section 44AB(e) of audit would be applicable only if the assessee has opted section 44AD previously and in any next five consecutive years, assessee doesn't declare profit as per sub-section (1) of 44AD, the audit would trigger.

Please remember that audit u/s 44AB(e) would be attracted not for the fact that he disclosed profit lesser than 8%/6% but for the fact that, assessee had opted out from the presumptive scheme.

In contrary to the above, if in any assessment year, assessee opts in for presumptive scheme and in next assessment year/years even if he declares 35% profit but by maintaining books of accounts and opting out from the presumptive scheme, still audit would be attracted as the new provision of audit u/s 44AB(e) do not link the audit applicability with profit percentage but simply based upon the fact of entry and exit from presumptive scheme within the stipulated period.

Thus, if one follows audit blindly due to profit being lesser than 8%/6%, then, he might be defeating the true intent of the new audit provision of section 44AB(e). Although, over compliance is not bad, it might lead to unnecessary trouble when under the disguise of over compliance, one is availing additional benefit i.e. Department may take a stand that audit is conducted when audit was not required at all and therefore the return was filed beyond the prescribed regular date of filing return (non-audit case) attracting all the provisions of belated filing of return including and not limited to disallowance of carry forward of losses, if any. Thus, applicability of audit is to be checked in detail before moving forward on assumption of audit applicability which are purely based upon interpretation of law.

I would request to all the CAs in practice that before starting any audit, please do check whether audit would be applicable in actual in case of turnover below 2 crores (specifically for proprietary firms) and if applicable, what would be beneficial for the assessee whether to go for audit or to go for section 44AD, if opted in last year or years. (By keeping in mind not in terms of tax saving but in terms of violation of section 44AD(4)).

**Disclaimer:**

**The contents of this article are solely for informational purpose and shared based on my views and understanding related to the said topic. This is not an expert view. It does not constitute any professional advice or an opinion or a formal recommendation. While due care has been taken in preparing this article, the existence of mistakes and omissions herein is not ruled out.**



# OLA Electric – an EV Giant in making or a toothless Tiger?

CA Jigar Kshatriya B.Com., ACA

These days everyone is talking about participating in the EV Story and green revolution. There is no doubt in that, EV is definitely the future as we can see the government initiatives are clearly towards that. As of FY24 (ending March 2024), EV penetration reached 6.8% of new vehicle sales, with a significant contribution from electric two-wheelers (e2Ws). It is expected to grow to 15-25% in next 7 years in an optimistic scenario



We have first entirely EV company stepping into primary market early August. Let's talk about the brief history of the company:

Ola Electric, a subsidiary of the ride-hailing giant Ola Cabs, was established in 2017 with a vision to revolutionize India's transportation landscape through electric mobility. Ola Electric Mobility Limited is an electric vehicle company that primarily manufactures electric vehicles and certain core components for electric vehicles such as battery packs, motors, and vehicle frames at the Ola Futurefactory.

Since August 2021, the company has launched seven new products and announced four. On August 15, 2023, the company announced new EV models and a range of motorcycles including Diamondhead, Adventure, Roadster, and Cruiser.

As of October 31, 2023, the company operates its "omnichannel distribution network across India, comprising 870 experience centers and 431 service centers (including 429 service centers in experience centers), in addition to the Ola Electric website. In FY 2023, around 75% of 2W exports from India were destined for Africa, LATAM, and South East Asia, while the domestic supply of E2W was limited.

The business model relies on three key scalable platforms:

- The R&D and technology platform with in-house design and development of EV technologies and components,
- The adaptable production and supply chain platform and
- The D2C omnichannel sales platform

Objects of the Issue

- Capital expenditure to be incurred by its Subsidiary, OCT for expansion of the capacity of its cell manufacturing plant from 5GWh to 6.4 GWh, classified as phase 2 under the expansion plan (the "Project");
- Repayment or pre-payment, in full or part, of the indebtedness incurred by its Subsidiary, OET;
- Investment into research and product development;
- Expenditure to be incurred for organic growth initiatives.

So one might think that company is Futuristic and growing at such a rapid pace so it must be minting good money. right? Wrong. Let's look at the financials for a moment:

Period Ended	31 Mar 2024	31 Mar 2023	31 Mar 2022	31 Mar 2021
Assets	7,735.41	5,573.17	5,395.86	2,112.64
Revenue	5,243.27	2,782.70	456.26	106.08
Profit After Tax	-1,584.40	-1,472.08	-784.15	-199.23
Net Worth	2,019.34	2,356.44	3,661.45	1,970.62
Reserves and Surplus	-2,882.54	-1,380.03	-68.83	1,999.30
Total Borrowing	2,389.21	1,645.75	750.41	38.87

Amount in ₹ Crore

Numbers speak louder than words. Company is being in losses since inception. And now the all 3 factors (circled) are telling you the story. One might say, but it will be profitable in future. This is what company has to tell about it's future profits (taken from RHP):

profit and loss statement based on the fair value of the ESOPs on the date on which the grant is made and such expenses reduce our profitability to that extent for the relevant financial quarter or year. We cannot assure you that we will be able to manage costs effectively to sell our products at favourable margins or that our expansion into international markets will prove to be profitable. Failure to become profitable would materially and adversely affect the value of your investment in our Company.

*We have a limited operating history in manufacturing EV's. There is no assurance that we will be cost effective in our operations or profitable in the future, whether at the holding company level or at the subsidiary level.*

Déjà vu moment?

Guess which recent IPO has had these similar wordings in RHP (Hint: Paytm kro)

Valuations:

Ola Electric's IPO was valued at around ₹33,522 crore (approximately \$4 billion) at the upper price band. This valuation placed the company at a market cap/sales ratio of 6.6 times which is significantly higher than it's peers like Bajaj Auto, Hero.

With such rich valuations and lack of profitability, it's better to wait & watch whether it turns out to be another Debt-laden company or it actually turns profitable. Only time will tell.

**Disclaimer: For information purpose only. Do your own research or consult your financial advisor before investing.**

## GST Updates – Notifications, Circulars, Order, Instructions, RoDs, Press Releases for the Month of July 2024

-CA Deep Koradia B.Com., FCA, DISA(ICAI)

Sr No	Notification No	Category	Date	Description	Keyword / Reference/ Comment	Link
1	12/2024	Central Tax	10-07-2024	Seeks to make amendments (Amendment, 2024) to the CGST Rules, 2017.	<ul style="list-style-type: none"> <li>- During new GST Registration, if aadhar Authentication is not opted, then Aadhar Bio Metric verification with photo and proofs will be required at aadhar authentication center, yet to be notified.</li> <li>- If Cancellation of Registration has been revoked, then returns has to be filled within 30 days, else number will again gets cancelled</li> <li>- Corporate Gaurantee will applicable only if recipient is situated in INDIA. 1% will applicable per year. If recipient is eligible for FULL ITC, then Value on Invoice will be deemed valuation</li> <li>- New ISD distribution mechanism announced, yet to be notified</li> <li>- RCM is also under the umbrella of ISD</li> <li>- GSTR1A introduced to add additional details of GSTR-1 incase missed but to be filled before filling 3B</li> <li>- GSTR-4 Due date shifted from 30-04 to 30-06 for every year</li> <li>- Rules replaced for Appeal to Appellate Tribunal in Rule 110, 111</li> </ul>	<a href="#">Click here</a>

					<ul style="list-style-type: none"> <li>- If Any tax has been paid before due date, but 3B filled belatedly, the interest on such tax paid before due date will not be levied</li> <li>- Manual Refund Application of WITH PAY Export incase of Upward revision via Debit note has been prescribed</li> <li>- Incase of EWB generated by unregistered person, procedure has been notified for registration on EWB Portal</li> <li>- Acceptance of DRC-03 in DRC-04 has to be issued now electronically</li> <li>- Drop Procedure announced for DRC-01A in PartC of DRC-01A</li> <li>- DRC-03A Announced to appropriate DRC-03 against any Demand to link such DRC-03s with specific demand order</li> </ul>	
2	13/2024	Central Tax	10-07-2024	Seeks to rescind Notification no. 27/2022-Central Tax dated 26.12.2022.	Gujarat State is notified for Biometric based GST Registration in 27-2022, which is rescind as now whole country is notified in rules for bio metric for certain category	<a href="#">Click Here</a>

3	14/2024	Central Tax	10-07-2024	Seeks to exempt the registered person whose aggregate turnover in FY 2023-24 is upto Rs. two crores, from filing annual return for the said financial year.	GSTR-9 exempted for Personal having T/O upto 2 crore	<a href="#">Click here</a>
4	15/2024	Central Tax	10-07-2024	Seeks to amend Notification No. 52/2018-Central Tax, dated 20.09.2018.	TCS on Ecommerce Operator has been reduced from 1% to .50 paisa	<a href="#">Click Here</a>
5	02/2024	Central Tax Rate	12-07-2024	Seeks to amend notification No. 1/2017-Central Tax (Rate)	GST Rate for Corrugated box, Milk Can, Solar cooker etc changed	<a href="#">Click Here</a>
6	03/2024	Central Tax Rate	12-07-2024	Seeks to amend notification No. 2/2017-Central Tax (Rate)	Change in GST Exemption of Goods in NN 02-2017 CTR	<a href="#">Click Here</a>
7	04/2024	Central Tax Rate	12-07-2024	Seeks to amend Notification No 12/2017-Central Tax (Rate) dated 28.06.2017.	Change in GST Exemption for Services (Hostel servies etc)	<a href="#">Click Here</a>

8	01/2024	Integrated Tax	10-07-2024	Seeks to amend Notification No. 02/2018-Integrated Tax, dated 20.09.2018.	TCS on Ecommerce Operator has been reduced from 1% to .50 paisa	<a href="#">Click Here</a>
9	02/2024	Integrated Tax Rate	12-07-2024	Seeks to amend notification No. 1/2017-Integrated Tax (Rate)	GST Rate for Corrugated box, Milk Can, Solar cooker, etc. changed	<a href="#">Click Here</a>
10	03/2024	Integrated Tax Rate	12-07-2024	Seeks to amend notification No. 2/2017-Integrated Tax (Rate)	Change in GST Exemption of Goods in NN 02-2017 CTR	<a href="#">Click Here</a>
11	04/2024	Integrated Tax Rate	12-07-2024	Seeks to amend Notification No 09/2017-Integrated Tax (Rate) dated 28.06.2017.	Change in GST Exemption for Services (Hostel services, etc.)	<a href="#">Click Here</a>
12	01/2024	Compensation Cess (Rate)	12-07-2024	Seeks to provide exemption from Compensation Cess on supplies under heading 2202 by URCs to authorised customers.	Heading 2202 Aerated Water exempted from CESS when supplied by Unit Run Canteens to Authorised Customers	<a href="#">Click Here</a>

13	223/2024	Circular - CGST	10-07-2024	Amendment in circular no. 1/1//2017 in respect of Proper officer for provisions relating to Registration and Composition levy under the Central Goods and Services Tax Act, 2017 or the rules made thereunder.	- functions of proper officer in relation to section 30 & Proviso to sub-section (1) of section 27 of CGST Act, as well as rule 6, rule 23 & rule 25 has been assigned to Superintendent instead of AC / DC	<a href="#">Click Here</a>
14	224/2024	Circular - CGST	11-07-2024	Guidelines for recovery of outstanding dues, in cases wherein first appeal has been disposed of, till Appellate Tribunal comes into operation	- till the GSTAT gets operational, a person needs to pay the another 20% / 10% pre-deposit through electronic liability ledger and provide declaration for getting stay - incase amount has already been paid via DRC-03, it can be appropriated to such demand via DRC-03A and need to file declaration - Till the time DRC-01A gets live on portal, one may give undertaking that he will file DRC-03A as and when its available	<a href="#">Click Here</a>

15	225/2024	Circular - CGST	11-07-2024	Clarification on various issues pertaining to taxability and valuation of supply of services of providing corporate guarantee between related persons.	Clarification on various issues pertaining to taxability and valuation of providing corporate guarantee between related persons.	<a href="#">Click Here</a>
17	227/2024	Circular - CGST	11-07-2024	Processing of refund applications filed by Canteen Stores Department (CSD).	Processing of refund applications filed by Canteen Stores Department (CSD).	<a href="#">Click Here</a>
18	228/2024	Circular - CGST	15-07-2024	Clarifications regarding applicability of GST on certain services -reg.	Clarifications regarding applicability of GST on certain services including Accomodation hostel service	<a href="#">Click Here</a>
19	229/2024	Circular - CGST	15-07-2024	Clarification regarding GST rates & classification (goods) based on the recommendations of the GST Council in its 53rd meeting held on 22nd June, 2024, at New Delhi -reg	Clarification regarding GST rates & classification (goods)	<a href="#">Click Here</a>



## DUE DATES CALENDAR

DATE	COMPLIANCE
7th August 2024	TDS Payment for July 2024
10th August 2024	Professional Tax (PT) on Salaries for July 2024
11th August 2024	GSTR 1 (Monthly) for July 2024
13th August 2024	GSTR 1 IFF (Optional) (Jul 2024) for QRMP
15th August 2024	Issue of TDS Certificates in Form 16A for April to June 2024
15th August 2024	Provident Fund (PF) & ESI Returns and Payment for July 2024
20th August 2024	GSTR 3B for July 2024(Monthly)
25th August 2024	GST Challan Payment if no sufficient ITC for Jul 2024 (for all Quarterly Filers)
30th August 2024	TDS Payment in Form 26QB (Property), 26QC (Rent), 26QD (Contractor Payments), 26QE (Crypto Assets) for July 2024

# PHOTO GALLERY OF BRANCH EVENTS

## CA Day Celebration



Felicitation of Newly Qualified Chartered Accountants



CPE Seminar

