

QR – 65

30th October, 2020
&
31st October, 2020

Regarding
getting the accounts audited
and
furnishing of audit report
under various provisions of the Income Tax Act, 1961
{besides section 44AB and section 92E}
for the assessment year 2020-21

1. As per different provisions of the Income Tax Act, 1961, besides section 44AB of the Act, an assessee is required to get his accounts of the previous year (in some provisions mentioned - in respect of that year) **and** furnish a report of such audit as specified under such provisions of the Act.

- (i) Section 10(23C)(iv)
- (ii) Section 10(23C)(v)
- (iii) Section 10(23C)(vi)
- (iv) Section 10(23C)(via)
- (v) Section 10A
- (vi) Section 10AA
- (vii) Section 12(1)(b)
- (viii) Section 44AB {already discussed in QR – 64}**
- (ix) Section 44DA
- (x) Section 50B
- (xi) Section 80-IA
- (xii) Section 80-IB
- (xiii) Section 80-IC
- (xiv) Section 80-ID
- (xv) Section 80JJA
- (xvi) Section 80LA
- (xvii) Section 92E {to be discussed separately}**
- (xviii) Section 115JB
- (xix) Section 115JC
- (xx) Section 115VW

2. Up to assessment year 2019-20 under *some of the* above provisions (other than section 92E), the assessee was required to **get** the accounts audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288, **and** to furnish along with the return of income for the relevant assessment year the report of such audit.
3. Similarly, up to assessment year 2019-20 under *some of the other* above provisions (other than section 92E), the assessee was required to **claim** that his accounts are audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288, **and** to furnish along with the return of income for the relevant assessment year the report of such audit.
4. Similarly, up to assessment year 2019-20 under *some of the other* above provisions (other than section 92E), the assessee was **furnish** a report from an accountant as defined in the *Explanation* below sub-section (2) of section 288, along with the return filed under section 139(1).
5. However, the Finance Act, 2020 has made a major amendment in this regards *w.e.f.* 1.4.2020, *i.e.* from assessment year 2020-21.
6. The Finance Act, 2020 has **substituted** following expression in *some of the* above sections, in so far as it relates to getting the accounts audited and furnishing of audit report:

“before the specified date referred to in section 44AB and furnish by that date”

7. Similarly, the Finance Act, 2020 has **substituted** following expression in *some of the* other above sections, in so far as it relates to getting the accounts audited and furnishing of audit report:

“before the specified date referred to in section 44AB”
8. In this context, ***“before the specified date”*** refers to getting the accounts audit or obtain the report of audit, as the case may be.
9. **"specified date"** referred to in section 44AB in relation to the accounts of the assessee of the previous year relevant to an assessment year, means ***date one month prior to the due date*** for furnishing the return of income under sub-section (1) of section 139.
10. As per *Explanation 2* to section 139(1) **"due date"** means,—

(a) where the assessee other than an assessee referred to in clause (aa) is—

(i) a company; **or**

(ii) a person (other than a company) whose accounts are required to be audited **under this Act or under any other law** for the time being in force; **or**

(iii) a partner of a firm whose accounts are required to be audited under this Act or under any other law for the time being in force,

the ***31st day of October*** of the assessment year;

11. Since the *specified date* mentioned in above sections is the *due date* mentioned in *Explanation 2* to section 139(1), therefore, the expression “*date one month prior to the due date*” would mean **30th September** of the assessment year.
12. It means that report of audit in terms of above sections is required to be furnished **by 30th September** of the assessment year.
13. However, as per the provisions of section 115JB(4), in the case of payment of certain companies under MAT provisions, for the assessment year 2020-21 audit report is required to be furnished **not** by the specified date, **but before** the specified date.
14. Whereas, as per the provisions of section 115JC(3), in the case of payment of certain persons other than companies under AMT provisions, for the assessment year 2020-21 audit report is required to be furnished **not** by the specified date.
15. Since such person is required to get his accounts of the previous year audited **before** the *specified date*, therefore, such person is obliged to get his accounts audited by **29th September** of the assessment year.
16. For the assessment year 2020-21, as per the Act these due dates are as follows:
 - (i) to get the accounts of the previous year audited – 29th September, 2020
 - (ii) to furnish the report thereof with the prescribed particulars – 30th September, 2020.
17. However, *vide* MHA order No. 40-3/2020/-DM-I(A) dated 24.3.2020 r.w. NDMA order No.1-29/2020/PP (Pt. II) dated 24.3.2020, in the wake of worldwide Novel Covid-19 outbreak, first countrywide lockdown was declared and imposed starting from 25.3.2020.
18. To mitigate hardships, Hon’ble President of India promulgated an Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 dated 31.3.2020.
19. As per section 3(1)(b) of the Ordinance any time limit which has been specified in, or prescribed or notified under, the specified Act (as defined in section 2(1)(a) of the Ordinance) which falls during the period **from 20.3.2020 to 29.6.2020** or such other date after 29.6.2020, as the Central Government may, by notification, specify in this behalf, for the **compliance of such action**, as - filing of **any** appeal, reply or application or **furnishing of any report**, document, return, statement or such other record, by whatever name called, under the provisions of the specified Act **and** where **compliance of such action** has not been made within such time, then, the time limit for **compliance of such action**, notwithstanding anything contained in the specified Act, **stand extended to the 30.6.2020**, or such other date after the 30.6.2020, as the Central Government may, by notification, specify in this behalf:
20. The time limits specified u/s 44AB for furnishing the tax audit report of assessment year 2020-21 **did not** fall during the period from 20.3.2020 to 29.6.2020.

21. However, in order to further mitigate the hardships due to continued spread of Covid-19, CBDT drawing power from section 3(1)(b) of the Ordinance, issued Notification No. 35/2020 dated 24.6.2020, *vide* which –
- (i) the period of time limit was **extended** from “20.3.2020 to 29.6.2020” to (20.3.2020 to 31.12.2020”, **and**
 - (ii) the time limit for action of furnishing of reports was **extended** to 31.3.2021.
22. The specified dates, viz 29.9.2020 and 30.9.2020 falls during the time limit from 20.3.2020 to 31.12.2020. Therefore, the specified dates were well covered by the Notification.
23. However, *vide* clause (vii) of the **first proviso** of the Notification No. 35/2020 dated 24.6.2020, for the purposes of furnishing of report of audit under any provision of the Income Tax Act, 1961 (including section 44AB) for the assessment year 2020-21 the **specified ate** (the end date) was extended to **31.10.2020**.
24. Accordingly, for the assessment year 2020-21 the **specified date** of **30.9.2020** for the purposes of furnishing the report with the prescribed particulars was extended to **31.10.2020**
25. Accordingly, for the assessment year 2020-21 the **specified date** of **29.9.2020** for the purposes of getting the accounts of the previous year audited was extended to **30.10.2020**.
26. In order to regularise the provisions of the “Ordinance” dated 31.3.2020 **and** the Notification No. 35/2020 dated 24.6.2020, the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 dated 29.9.2020 was enacted.
27. As per clause (vii) of 3rd proviso of section 3(1) of the “Relaxation and Amendment Act, 2020” the date of furnishing of report has been **extended to 31.10.2020**.
28. This extension of **31.10.2020** was made in respect of any time-limit specified in, or prescribed or notified, *inter alia*, under the Income Tax Act, 1961 which falls during the period **from 20.3.2020 to 31.12.2020**, or such other date after the 31.12.2020, as the Central Government may, by notification, specify in this behalf.
29. It may not be out of place to mention that since the first extension was made with **non-obstante** clause “**notwithstanding anything contained in the specified Act**”, which was regularised by the Relaxation and Amendment Act, 2020 dated 29.9.2020. Therefore, it over rides the limitation specified in section 44AB of the Income Tax Act, 1961.

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