

TOPIC RELATED TO ADVANCE TAX

Presumptive Taxation Scheme under Income Tax Act

To reduce the tax burden and to provide relief from tedious work to small tax assesseees, the government of India has incorporated a scheme of presumptive taxation. Businesses adopting the presumptive taxation scheme are not required to maintain regular books of account. They can declare the income at a prescribed rate. The presumptive taxation scheme is framed under two sections 44AD and 44AE of the Income Tax Act, 1961. Person adopting presumptive taxation schemes are exempt from getting their books of account audited. The main objective of Presumptive taxation scheme is to relieve the small tax payers from the tedious work of maintaining books of accounts. An assessee, who adopts the provisions of presumptive taxation scheme under the Section 44AD of the Income Tax Act, is not required to maintain any books of account. Basically this is applicable to the businesses that are covered under Section 44AA of the IT Act. For such assesseees or businesses, it's not required to get their books audited as per the provisions of Section 44AB.

To understand this, let's take an example. Mr. Amitava is running a provision store. Turnover of his business for the previous year is Rs. 50 lakh. He declared his business income as per the provisions of presumptive taxation scheme of Section 44AD. In this case, Mr. Mani is not obliged to maintain the books of account relating to his business as per the provisions of Section 44AD. And also, he is not required to get his books audited as his business is not covered under Section 44AA and Section 44AB of the IT Act.

Declaring Lower Income or Higher Income under the Presumptive Taxation Scheme:

In case, the assesseees' actual business income is lower than that of the presumptive income as declared under the presumptive taxation scheme of Section 44AD (i.e. 8% of the total turnover or gross receipt), then there is no relief on maintaining the books of account as per the scheme. That means, if assessee's actual business income is lower than the presumptive income, then he is required to maintain the books of account pertaining to his business as per Section 44AA. And also, he is required to get the books audited as per the provisions of Section 44AB of the Income Tax Act, 1961.

In case, the actual income is more than the presumptive income scheme, this provision allows the assessee to declare the higher income at his option (higher than the prescribed rate of 8%). Lastly, presumptive taxation scheme under Section 44AD is a great relief to small and medium tax payers with regards to maintenance of books of account and getting it audited which is often quite very tedious job with high probability of errors.

Eligibility Criteria to avail the Benefits of Presumptive Taxation Scheme under Section 44AD

Below are the types of tax assesses who can adopt the provisions of presumptive taxation scheme Under Section 44AD :

- Resident Individual tax payers
- Hindu Undivided Families
- Partnership Firm (except LLP or Limited Liability Partnership Firm)

The scheme of section 44AD is designed to give relief to small taxpayers engaged in any business, except the following businesses:

- Business of plying, hiring or leasing of goods carriages referred to in section 44AE.
- A person who is carrying on any agency business.
- A person who is earning income in the nature of commission or brokerage

Below conditions are to be satisfied for adopting presumptive taxation scheme under Section 44AD of the Income Tax Act:

- i. The firm or individual's gross receipt or annual turnover in the previous year should not have exceeded Rs. 2 crores. For Example, Mr. Mahesh has a garments shop. The annual turnover of his shop for the last year was Rs. 92 lakh. He can adopt the scheme of presumptive taxation under Section 44 AD to avoid tedious paperwork involved in filing taxes at the end of the financial year. Provisions of Section 44AD primarily concentrates on small and medium sized businesses.
- ii. Any firm or a person who has not claimed tax deduction under the Sections 10A, 10AA, 10B, 10BA during the assessment year can adopt the provisions of Section 44AD. Same applies for the individuals or firms who have not claimed deductions under Section 80HH to 80 RRB.
- iii. Individuals or firms engaged in the business of plying and hiring goods carriages cannot adopt these provisions.
- iv. Firm or an individual assessee involved in professional services in which the income is earned in the nature of brokerage or commission cannot adopt presumptive taxation schemes. *The same is now amended and professionals can adopt the provisions of presumptive taxation scheme under the new Section 44ADA with effect from 1st April 2017.*

Further, these provisions can be adopted by the assessee only if he has not claimed deduction under section 10A/10AA/10B/10BA or under sections 80HH to 80RRB in the relevant year.

Applicable Rate and Income Computation under Section 44AD

Eligible assesseees who are willing to adopt the presumptive taxation scheme under the provisions of Section 44AD has to compute their income on the estimation basis. It is calculated at the rate of 8% of Gross receipts or total annual turnover of the business for the previous year. Assessee can even declare an income in his income tax return higher than the presumptive income shown as per the scheme.

For example, Mr. Parul is running a stationary shop whose turnover is Rs. 85 lakh for the previous year. He is willing to adopt the provisions of presumptive taxation scheme under Section 44AD of the Income Tax Act, 1961 with regards to taxation of his business. As per the provisions of Section 44AD, income will be computed on the basis of estimation at the rate of 8% of gross receipts or total turnover of the eligible business for the previous year. In this case, Mr. Lokesh having a stationary business with Rs. 85 lakh turnover (less than Rs. 2 cr as per the provisions of Section 44AD) can adopt the provisions of the scheme. And his annual presumptive tax will be Rs. 6,80,000 (i.e. 8% of Rs. 85 lakh).

Let's take another example. Mr. Mohan is running a partnership firm in the name of Shree Corporation. Gross receipts of his business for the previous year were Rs. 86 lakhs. He declared his income under the presumptive taxation scheme of Section 44AD. Net income was Rs. 688000 after computing at the rate of 8% of the gross receipts. He wanted to claim further deductions under Section 30 for the depreciation of his firm's building. But, as per the provisions under Section 44AD, computed presumptive income (6% or 8% of gross receipts or turnover of the eligible business for the previous year) is considered as the net income for the business covered under the presumptive taxation scheme. Hence, assessee is not allowed to claim any deductions under Section 30 to 38 (including depreciation and unabsorbed depreciation) of the Income Tax Act. Hence, Mr. Mohan cannot claim any further deductions after the computation of net income.

Section 44ADA

Section 44ADA was introduced for small professionals with the objective to simplify taxation, reduce compliance burden and facilitate the ease of doing business for certain small professionals. It also aims at bringing parity between small businesses who enjoy Presumptive Taxation Scheme under Section 44AD and small professionals. In case of a person adopting the provisions of section 44ADA, income will be computed on a presumptive basis, i.e. @ 50% of the total gross receipts of the profession. In other words, total gross receipts from profession should not exceed Rs 50 lakh for a financial year.

Conditions to be fulfilled to fall U/S 44AD

The scheme of section 44AD is designed to give relief to small taxpayers engaged in any business, except the following businesses:

- Business of plying, hiring or leasing of goods carriages referred to in section 44AE.
- A person who is carrying on any agency business.
- A person who is earning income in the nature of commission or brokerage

Apart from above discussed businesses, a person carrying on profession as referred to in section 44AA (1) is not eligible for presumptive taxation scheme.

Below are the professionals who can avail the benefits of presumptive taxation under this section:

- Engineering
- Legal
- Architectural profession
- Accountant
- Medical
- Technical consultant
- Interior business

Important Points to Note

- In case the assessee is running more than one business, turnover of all the businesses in question need to be considered to check the eligibility to adopt presumptive taxation scheme under Section 44AD.
- In case the assessee is involved in both business and professional practice, then provisions of presumptive taxation under Section 44AD can be adopted only for the business, income pertaining to profession has to be computed as per the normal provisions of the Income Tax Act, 1961.
- An assessee can claim tax deductions and avail benefits under Chapter VI-A (Section 80C to 80U) even if he is declaring income as per presumptive taxation scheme under Section 44AD of the Income Tax Act.

Section 44ADA: For professionals

Section 44ADA extends the benefit of presumptive taxation to professionals, which was only available to specific businesses before. Section 44ADA allows professionals to adopt the provisions of presumptive taxation scheme provided their gross receipts for the financial year do not exceed Rs.50 lakh. The presumptive taxation for professionals is 50%.