

The Income Tax Act, 1961

Section 44AD

Special provision for computing profits and gains of business on presumptive basis

⁵[Special provision for computing profits and gains of business on presumptive basis.

44AD. (1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an eligible assessee engaged in an eligible business, a sum equal to eight per cent. of the total turnover or gross receipts of the assessee in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the eligible assessee, shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

¹¹[**Provided** that this sub-section shall have effect as if for the words "eight per cent.", the words "six per cent." had been substituted, in respect of the amount of total turnover or gross receipts which is received by an account payee cheque or an account payee bank draft or use of electronic clearing system through a ¹²[bank account or through such other electronic mode as may be prescribed] during the previous year or before the due date specified in sub-section (1) of section 139 in respect of that previous year.']

(2) Any deduction allowable under the provisions of sections 30 to 38 shall, for the purposes of sub-section (1), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed:

⁸[***]

(3) The written down value of any asset of an eligible business shall be deemed to have been calculated as if the eligible assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

⁹[(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).

(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.]

⁷[(6) The provisions of this section, notwithstanding anything contained in the foregoing provisions, shall not apply to-

- (i) a person carrying on profession as referred to in sub-section (1) of section 44AA;

- (ii) a person earning income in the nature of commission or brokerage; or
- (iii) a person carrying on any agency business.]

Explanation.- For the purposes of this section,-

(a) "eligible assessee" means,-

- (i) an individual, Hindu undivided family or a partnership firm, who is a resident, but not a limited liability partnership firm as defined under clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009); and
- (ii) who has not claimed deduction under any of the sections 10A, 10AA, 10B, 10BA or deduction under any provisions of Chapter VIA under the heading "C.-Deductions in respect of certain incomes" in the relevant assessment year;

(b) "eligible business" means,-

- (i) any business except the business of plying, hiring or leasing goods carriages referred to in section 44AE; and
- (ii) whose total turnover or gross receipts in the previous year does not exceed an amount of ¹⁰[two crore rupees] .]

¹³[Provided that where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed five per cent. of the total turnover or gross receipts of such previous year, this sub-clause shall have effect as if for the words "two crore rupees", the words "three crore rupees" had been substituted:

Provided further that for the purposes of the first proviso, the receipt of amount or aggregate of amounts by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the receipt in cash.]

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Notes-

1. Inserted by the Finance Act, 1994, w.e.f. 1-4-1994.
2. Inserted by the Finance Act, 1997, w.r.e.f. 1-4-1994.
3. Inserted by the Income-tax (Second Amendment) Act, 1998, w.r.e.f. 1-4-1997. Earlier sub-section (5) was inserted by the Finance Act, 1994, w.e.f. 1-4-1994 and later on omitted by the Finance Act, 1997, w.e.f. 1-4-1997.
4. Inserted by the Finance Act, 1999, w.r.e.f. 1-4-1998.
5. Substituted vide Finance (No. 2) Act, 2009 with effect from 1-4-2011, before it was read as,
" ¹[Special provision for computing profits and gains of business of civil construction, etc.

44AD. (1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an assessee engaged in the business of civil construction or supply of labour for civil construction, a sum equal to eight per cent of the gross receipts paid or payable to the assessee in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum as declared by the assessee in his return of income, shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession":

Provided that nothing contained in this sub-section shall apply in case the aforesaid gross receipts paid or payable exceed an amount of forty lakh rupees.

(2) Any deduction allowable under the provisions of sections 30 to 38 shall, for the purposes of sub-section (1), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed :

²[Provided that where the assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed under sub-section (1) subject to the conditions and limits specified in clause (b) of section 40.]

(3) The written down value of any asset used for the purpose of the business referred to in sub-section (1) shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

(4) The provisions of sections 44AA and 44AB shall not apply in so far as they relate to the business referred to in sub-section (1) and in computing the monetary limits under those sections, the gross receipts or, as the case may be, the income from the said business shall be excluded.

³[(5) Nothing contained in the foregoing provisions of this section shall apply, where the assessee claims and produces evidence to prove that the profits and gains from the aforesaid business during the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or any earlier assessment year, are lower than the profits and gains specified in sub-section (1), and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee and determine the sum payable by the assessee on the basis of assessment made under sub-section (3) of section 143.]

⁴[(6) Notwithstanding anything contained in the foregoing provisions of this section, an assessee may claim lower profits and gains than the profits and gains specified in sub-section (1), if he keeps and maintains such books of account and other documents as required under sub-section (2) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB.]

Explanation.-For the purposes of this section, the expression "civil construction" includes-

(a) the construction or repair of any building, bridge, dam or other structure or of any canal or road;

(b) the execution of any works contract.]"

6. In the Explanation, in clause (b), in sub-clause (ii), for the words "forty lakh rupees", the words "sixty lakh rupees" has been substituted vide Finance Act, 2010 w.e.f. the 1st day of April, 2011. Further Substituted vide Finance Act, 2012, w.e.f. 01-04-2013., before it was read as:- "sixty lakh rupees"

7. Inserted vide Finance Act, 2012, w.e.f. 01-04-2011

8. Omitted vide the finance act, 2016 w.e.f. 1st day of April, 2017, before it was read as, " Provided that where the eligible assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed under sub-section (1) subject to the conditions and limits specified in clause (b) of section 40. "

9. Substituted vide the finance act, 2016 w.e.f. 1st day of April, 2017, before it was read as,

"(4) The provisions of Chapter XVII-C shall not apply to an eligible assessee in so far as they relate to the eligible business.

(5) Notwithstanding anything contained in the foregoing provisions of this section, an eligible assessee who claims that his profits and gains from the eligible business are lower than the profits and gains specified in sub-section (1) 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."

10. Substituted vide the finance act, 2016 w.e.f. 1st day of April, 2017, before it was read as, " ⁶[one crore rupees] "

11. Inserted vide the finance act, 2017 w.e.f. 1st day of April, 2018.

12. Substituted vide finance (no. 2) act, 2019 w.e.f. 01-04-2020 before it was read as "bank account"

13. Inserted vide the finance act, 2023 dated 31-03-2023 w.e.f. 01-04-2024