



# Dhanbad Branch of CIRC of The Institute of Chartered Accountants of India (Setup by an Act of Parliament)

75  
आजादी का  
अमृत महोत्सव



भूमि सुखम्  
ONE EARTH - ONE FAMILY - ONE FUTURE



CA. Aniket Sunil Talati,  
President, ICAI

**E-Newsletter  
FEB-2023**



CA. Ranjeet Agarwal  
Vice-President, ICAI

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**Disclaimer:**

The opinions and views expressed in the e-newsletter are sole responsibility of authors/writers and Dhanbad branch committee has no responsibility on emergence of any dispute and difference in opinion and facts of the laws referred therein.



## Past Committee Members of Dhanbad Branch of CIRC of ICAI

<i>TERM</i>	<i>CHAIRMAN</i>	<i>VICE-CHAIRMAN</i>	<i>SECRETARY</i>	<i>TREASURER</i>
<i>1990-92</i>	 <i>H.P.LALA</i>	 <i>S.P.AGARWAL</i>	 <i>P.S.KESHRI</i>	 <i>R.K.PATNIA</i>
<i>1992-93</i>	 <i>S.P.AGARWAL</i>	 <i>D.N.SINHA</i>	 <i>P.S.KESHRI</i>	 <i>R.K.PATNIA</i>
<i>1993-95</i>	 <i>S.P.AGARWAL</i>	 <i>R.K.P.SHAH</i>	 <i>P.S.KESHRI</i>	 <i>R.K.PATNIA</i>
<i>1995-98</i>	 <i>D.N.SINHA</i>	 <i>S.K.GUPTA</i>	 <i>K.K.HARODIA</i>	 <i>P.K.GUTGUTIA</i>
<i>1998-00</i>	 <i>P.S.KESHRI</i>	 <i>I.M.MEHTA</i>	 <i>R.J.MATALIA</i>	 <i>S.K.PASARI</i>
<i>2000-01</i>	 <i>I.M.MEHTA</i>	 <i>S.K.GUPTA</i>	 <i>R.J.MATALIA</i>	 <i>S.K.PASARI</i>
<i>2001-02</i>	 <i>R.K.PATNIA</i>	 <i>S.P.KESHRI</i>	 <i>A.K.MOOKIM</i>	 <i>N.K.SINGH</i>
<i>2002-03</i>	 <i>P.K.GUTGUTIA</i>	 <i>S.P.KESHRI</i>	 <i>N.K.SINGH</i>	 <i>M.K.BALUKA</i>



## Past Committee Members of Dhanbad Branch of CIRC of ICAI

<i>TERM</i>	<i>CHAIRMAN</i>	<i>VICE-CHAIRMAN</i>	<i>SECRETARY</i>	<i>TREASURER</i>
<i>2003-04</i>	 <i>K.K.HARODIA</i>	 <i>A.K.MOOKIM</i>	 <i>N.K.SINGH</i>	 <i>M.K.BALUKA</i>
<i>2004-05</i>	 <i>R.J.MATALIA</i>	 <i>S.K.PASARI</i>	 <i>SHYAM PASARI</i>	 <i>R.K.AGARWAL</i>
<i>2005-06</i>	 <i>S.K.PASARI</i>	 <i>N.K.SINGH</i>	 <i>SHYAM PASARI</i>	 <i>R.K.AGARWAL</i>
<i>2006-07</i>	 <i>A.K.MOOKIM</i>	 <i>L.K.JHUNJHUNWALA</i>	 <i>R.B.GOEL</i>	 <i>SHYAM PASARI</i>
<i>2007-08</i>	 <i>R.B.GOEL</i>	 <i>ARUN KUMAR</i>	 <i>L.K.JHUNJHUNWALA</i>	 <i>DEEPAK VERMA</i>
<i>2008-09</i>	 <i>L.K.JHUNJHUNWALA</i>	 <i>DEEPAK VERMA</i>	 <i>ARUN KUMAR</i>	 <i>AMIT DALMIA</i>
<i>2009-10</i>	 <i>ARUN KUMAR</i>	 <i>DEEPAK VERMA</i>	 <i>SHYAM PASARI</i>	 <i>AMIT DALMIA</i>
<i>2010-11</i>	 <i>GOPAL AGARWAL</i>	 <i>SUNIL KUMAR MEHTA</i>	 <i>RAJESH KUMAR SINGHAL</i>	 <i>DEEPAK VERMA</i>



## Past Committee Members of Dhanbad Branch of CIRC of ICAI

TERM	CHAIRMAN	VICE-CHAIRMAN	SECRETARY	TREASURER
2011-12	 SUNIL KUMAR MEHTA	 SHYAM PASARI	 RAJESH KUMAR SINGHAL	 AMIT DALMIA
2012-13	 SHYAM PASARI	 RAJESH KR SINGHAL	 AMIT DALMIA	 VINAY KR. AGARWAL
2013-14	 AMIT RAJ GUPTA	 ANANT BHARTIA	 SHYAM S. SAH	 NAMAN KR. DOKANIA
2014-15	 ANANT BHARTIA	 SHYAM S. SAH	 RAHUL AGARWALLA	 SUNIL KR. DAS
2015-16	 SHYAM S. SAH	 RAHUL AGARWALLA	 SUNIL KR. DAS	 NAMAN KR. DOKANIA
2016-17	 RINKEY THACKER	 LUCKY PAL SINGH	 PRATIK GANERIWAL	 MOHIT KR. BANSAL
2017-18	 MOHIT KR. BANSAL	 ANUP AGARWAL	 VISHAL KR AGARWAL	 RAHUL .KR SINGHANIA
2018-19	 VISHAL KR AGARWAL	 ANUP AGARWAL	 RAHUL .KR SINGHANIA	 MOHIT KR. BANSAL
2019-20	 RAHUL.KR SINGHANIA	 CHARANJEET. S. CHAWLA	 SHIWAM AGARWAL	 RAHUL KR. AGARWAL
2020-21	 CHARANJEET. S. CHAWLA	 PRATIK GANERIWAL	 SHIWAMAGARWAL	 RAHUL.KR SINGHANIA
2021-22	 PRATIK GANERIWAL	 SHIWAM AGARWAL	 RAHUL KR AGARWAL	 CHARANJEET S. CHAWLA



# Managing Committee 2022-23

## Dhanbad Branch of CIRC of ICAI



<b>CA SANDEEP PANWAR</b>	—————→	<b>CHAIRMAN</b>
<b>CA SAURAV AGARWAL</b>	—————→	<b>VICE-CHAIRMAN</b>
<b>CA RAHUL SUREKA</b>	—————→	<b>SECRETARY</b>
<b>CA SUBHAM KHANDELWAL</b>	—————→	<b>TRESURER</b>
<b>CA NAND KISHORE TULSYAN</b>	—————→	<b>CICASA CHAIRMAN</b>
<b>CA S. S. JAISWAL</b>	—————→	<b>EXECUTIVE MEMBER</b>

# CPE - SUB COMMITTEE 2022-2023



**CA. Vishal Agarwal**  
**Chairman**  
**M. No. 7004753757**



**CA. Ekjot Singh**  
**M. No. 7808221442**  
**Secretary**



**CA. K. K Harodia**  
**M. No. 9431120134**  
**Executive Member**



**CA. Shyam Pasari**  
**M. No. 8210649024**  
**Executive Member**



**CA. L K Jhunjunwalla**  
**M. No. 9835174018**  
**Executive Member**



**CA. R B Goel**  
**M. No. 9431722542**  
**Executive Member**



**CA. Sidharth Jain**  
**M.No. 9204814350**  
**Executive Member**



**CA. Rahul Singhania**  
**M.No. 8986892111**  
**Executive Member**



**CA. Richa Kumari**  
**Chief Editor**  
**M. No. 6289117710**



# **E-Newsletter** **Sub Committee** **2022-2023**



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**Editor**  
**M.No. 7856056709**



**CA. Manish Kumar**  
**Editor**  
**M.No. 7004579671**



**CA. Nitesh Agarwal**  
**Editor**  
**M.No. 8252810259**



**CA. Aman Goenka**  
**Editor**  
**M.No. 8092068881**



## Presumptive Taxation applicable to Residents Under Income Tax Act 1961 – A Critical Analysis

Reading of Section 44AD, 44ADA & 44AE coupled with advisory issued by Income Tax Department enable us to understand the Presumptive Taxation Schemes applicable to Persons Residents in India.

Income Tax Department through issuance of **advisory** explained - **“To give relief to small taxpayers from the tedious job of maintenance of books of account and getting the accounts audited, the Income Tax Act has framed the presumptive taxation scheme under section 44AD, 44ADA and 44AE”**.

### Critical Comment:

**Presumptive means** “of the nature of a presumption; presumed in the absence of further information.”

What is presumed is an estimation of actual. What is to be estimated must have a sound reasoning.

**My view is :-** income can be presumed according to the commercial reality and in no case in any other way. There are different industries in economy having different cost and revenue structures – It is the size and nature of business which decides profit margin. In case of colour & paints, medicines, grocery stores, hardware stores, Cycle Store, Sweet Shop etc. – different profit margin exist. To provide for single net profit margin for all type of business is against the commercial reality and substance.

Constitution provide Union Government right to levy Taxes on Income and not To tax hypothetical Income.

The original insertion of “Presumptive Taxation” had a separate vision. Should we not think for the same. **“To give relief to small taxpayers from the tedious job of maintenance of books of account and getting the accounts audited” – Can not be excuse for taxing on presumptive basis.**

**Section 44AD:** Special Provision for computing business income in certain cases.

**Who can opt for Presumptive Taxation Under 44AD:** An Eligible Assessee and Engaged in an eligible business.

**"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;

**"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 two crore rupees.

**Who Cannot opt for Presumptive Taxation Under Section 44AD:** Person carrying on specified profession U/s 44AA(1), person earning commission and exchange as income and person carrying agency business.

**Critical Comment:** As the title of the section make it applicable to business only then it is quite clear that it is not applicable to any profession. Business is different from profession and has been categorically defined under various case laws.

Section 2(36) says "Profession includes Vocation".

Here profession has not been defined rather vocation has been made part of it which is an independent word having a separate meaning. **"Profession" demands specialized knowledge through formal education and/or experience, an organized body to control persons exercising profession that assure competence of professionals – society needs professionals due to skills one has acquired due to that knowledge and /or experience.** Vocation is self employment of any sort, which require skill, it is not expected to be as organized as profession.

The word profession is not rigid or static in it's signification; it is undoubtedly progressive with the general progress of the community [Bradfield V/s Federal Taxation Commissioner (1924) CLR 1].

#### **Consequences if an eligible Assessee opts for Section 44AD :**

A. **Deduction under section 30 to 38 shall be deemed to have been allowed:** Firm is not allowed for deduction on account of interest and salary to the partner.

**Critical Comment:** Section 40 (b) is not a section of allowance rather it is a section of disallowance. Whatever has been allowed as an expenditure under section 30 to 38 can be further disallowed by section 40 (b). As Act specifically disallow deduction U/s 30 to 38 and not provide otherwise – Interest and Salary cannot be paid to the partners on the basis of Partnership Deed.

B. **WDV** of any Asset for **succeeding years** (Incase Assessee not opt for 44AD) shall be computed as if the assessee **claimed deduction in preceding years.**

C. Consequence **if the eligible assessee, who has once opted for section 44AD(1) changes the applicable scheme befor expiry of 5 Assessment Years** – Assess shall not be entitle to opt again 44AD before end of next 5 years. [Sec. 44AD(4)]

D. Shall be required to Maintain books of account and get them audited on application of section 44AD (4).

Presumption of Income (**Quantification**) : Income shall be presumed @ 8% or higher. However amount of gross receipts through electronic mode and actually received before due date as specified U/s 139 (1) – it shall be presumed that they comprise income @6%.

Example : Gross receipts – Rs. 6000000, received till 31<sup>st</sup> March of previous Year – Rs. 2500000, Received between 31<sup>st</sup> March of previous year and 31<sup>st</sup> July of Assessment Year – Rs. 500000 and Received after 31<sup>st</sup> July – Rs. 3000000.

Particulars	Income Presumed (Rs.)
6% of Gross Receipts [i.e. the amount received till the due date of filing the return U/s 139 (1)] 3000000X6%	180000
8% of remaining Income	240000
<b>Total Income</b>	<b>420000</b>

**Section 44ADA** : Special provision for computing profit & gains of profession on presumptive basis

**Who can opt for Presumptive Taxation Under 44ADA:** Any Specified professional (only Individual and Partnership Firm) as defined U/s 44AA(1). However LLPs are specifically excluded. For opting 44ADA gross receipts of professional must not exceed Rs. 5000000 during previous year.

**Consequences if an eligible Assessee opts for Section 44ADA :**

A. **Deduction** under **section 30 to 38** : Same as 44AD.

B. **WDV** of any Asset for **succeeding years** : Same as 44AD

C. Shall be required to Maintain books of account and get them audited on if professional claims income Lower than as specified under section 44AD (4).

Presumption of Income (**Quantification**) : Income shall be presumed @ 50% or higher.

**Section 44AE:** Special Provision for computing profits and gains of business of plying, hiring or leasing goods carriages

**Who can opt for Presumptive Taxation Under 44AE: Conditions** –(a).Any assessee, (b). Owns not more than 10 goods carriage at any time during previous year and (c). is engaged in the business of plying, hiring or leasing of such goods carriage.

**Consequences if an eligible Assessee opts for Section 44AE :**

A. **Deduction** under **section 30 to 38** shall be **deemed to have been allowed**: However Firm is allowed for deduction on account of interest and salary to the partner – As specifically provided by proviso.

B. **WDV** of any Asset for **succeeding years** (Incase Assessee not opt for 44AE) shall be computed as if the assessee **claimed deduction** in **preceding years**.

D. Shall be required to Maintain books of account and get them audited on if carriage owner claims income Lower than as specified under section 44E.

Presumption of Income (**Quantification**) : Income shall be presumed – A. For Heavy goods vehicle : Rs1000 per ton (Loading capacity) for month or part of the month and B. Other Vehicles – Rs. 7500 per month or part of the month.

**Explanation.**—For the purposes of this section,—

(a) the expressions "goods carriage", "gross vehicle weight" and "unladen weight" shall have the respective meanings assigned to them in section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(aa) the expression "heavy goods vehicle" means any goods carriage, the gross vehicle weight of which exceeds 12000 kilograms;

(b) an assessee, who is in possession of a goods carriage, whether taken on hire purchase or on instalments and for which the whole or part of the amount payable is still due, shall be deemed to be the owner of such goods carriage.



**Contributed by:**

**Name-CA Rahul Sharma**

**Mem. No. 402506**

## List of CPE / Non CPE Meeting Organized by Dhanbad Branch

Sl No	Date	Seminar Topic	Jointly With	Faculty	CPE Hours
01	01/02/2023	BUDGET PROVISIONS (AS LIVE BUDGET SESSION)	-	ROHIT KUMAR PRASAD	2
02	13/02/2023	S Vaidyanath Aiyar Memorial Lecture on Budget 2023-Direct Tax & Indirect Tax Provisions	S Vaidyanath Aiyar Memorial Lecture	CA Asim Prakash (Kolkata) CA Vikash Banka (Kolkata)	6
03	16/02/2023	Company Law	CLCG Committee	CA Mayur Agarwal (Kolkata)	3
04	22/02/2023	Code of Ethics and present practice	-	CA Shyam Pasari	2

# PHOTO GALLERY

## BUDGET PROVISIONS (AS LIVE BUDGET SESSION) 01/02/2023



## Budget 2023-Direct Tax & Indirect Tax Provisions 13/02/2023



# Company Law

## 16/02/2023



# Code of Ethics and present practice

## 22/02/2023





# New Managing Committee Handing over Taking over report Ceremony 2023-24



# CIRC Awards for Best Branch of CIRC and CICASA for the year 2022

## 27/02/2023





## Request for Members Participation

Dhanbad branch of CIRC of ICAI requests the members to come forward & share the articles (Professional & Other) to be published in the upcoming e newsletter. The resource materials may be sent to [dhanbad@icai.org](mailto:dhanbad@icai.org) with the subject line "Article Newsletter" along with a passport size photo.

