

# Clause - 44

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# History of Clause - 44

- Form 3CD was amended in July – 2018 vide Notification No. 33/2018 dated 20.07.2018 to incorporate Clause 44 and was made effective from 20.08.2018.
- On 17<sup>th</sup> August 2018, vide Circular No. 06/2018 the operation of clause 44 was kept in abeyance till 31<sup>st</sup> March 2019.
- In May 2019, vide CBDT Circular No. 09/2019 dated 14.05.2019 the implementation was deferred till 31st March 2020.
- In April 2020, vide Circular No. 10/2020 dated 24.04.2020 the implementation was deferred till 31st March 2021.

# History of Clause - 44

- Again in March 2021, vide Circular No. 05/2021 dated 25.03.2021 the reporting requirement of clause 44 was deferred and postponed till 31st March 2022.
- In the absence of any further abeyance order, tax auditors will be required to furnish details called for under clause 44 of Form 3CD of the Tax Audit Report if furnished on or after 01.04.2022
- The emphasis of the circular is on reporting requirements and not on any period of the previous year. Thus any report furnished after 31.03.2022 shall comply with the requirement of Clause 44.
- Thus, technically speaking, any tax audit report furnished on or after 1st April, 2022 (even for any financial year prior to FY 2021-22) needs to comply with the requirements of clause 44.

*Break-up of total expenditure of entities registered or not registered under the GST:*

SI. No.	Total amount of expenditure incurred during the year	Expenditure in respect of entities registered under GST				Expenditure relating to entities not registered under GST
		Relating to goods or services exempt from GST	Relating to entities falling under Composition Scheme	Relating to other registered entities	Total payment to registered entities	
1	2	3	4	5	6	7

## Column 2: Total Amount of Expenditure Incurred during the year

- Whether Minor Head wise details are expected?
- Whether Major head wise details are expected?
- Whether Nature wise details are expected?

**Clause no. 3, 4, 5 & 6:**

Expenditure in respect of entities registered  
under GST.

Relating to Goods  
and Services Exempt  
from GST.

Relating to Entities  
falling under  
Composition Scheme

Relating to  
Other Registered  
Entities

## Exempt Supply – Sec. 2(47) of CGST

*exempt supply means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under the Integrated Goods and Services Tax Act, and includes non-taxable supply;*



## Column 3 : Relating to Goods and Services Exempt from GST.

### Goods & Services

- Attracting Nil Rate of Tax:
  - Grains
  - Salt
  - Jaggary etc.
  
- Wholly exempt from Tax:
  - Fresh Fruits
  - Fresh Milk, Curd etc.
  
- Non-Taxable Supply:
  - Alcohol
  - Petroleum Products (excluding oil)

What about the transactions covered under Schedule III to CGST Act where the transactions are neither categorized as Goods nor Services?

For example –

- Purchase of Land / Building
- Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.

The guidance note issued by ICAI states that it need not be reported in any of the columns..

## Column 4: Relating to Entities falling under Composition Scheme

Most difficult part is to identify the purchases from Composition dealers for below reasons:

- No ITC available on Purchases.
- GST cannot be charged in the Invoice.
- There is no Tax Invoice but a Bill of Supply.
- Mostly, entities do not maintain the purchases from Composition dealers separately but club them with the URD purchases.

The guidance note issued by ICAI states that

*it is quite possible that the same may be reported in the category of “Expenditures relating to entities not registered under GST” and hence, a suitable remark / reference in this regard by the auditor may be thought of being included*

## Column 5: Relating to Other Registered Entities

Value of Supplies from Registered Entities not falling under the category of :

- Exempt Supplies or
- Supplies from Composition Dealer

- Exempt and Taxable supplies from same supplier – need to be bifurcated & reported separately.
- Registered entity supplying services to body corporate under RCM and to non body corporates by levying GST.
- Expenditure where ITC is blocked under 17(5) and recorded under URD.
- Purchase of TDR where RCM is applicable.
- Purchases of Foreign Exchange from a RD where GST is charged on abated rate. – Difficulties in calculating the Value of Supplies from the amount of GST appearing in Duties & Taxes.
- Payment to IRCTC.
- Import of Goods / Services
- Medical Expenditure
- Donation.
- Reimbursement of Travelling Exp to employees.

## Column – 6: Total Payment to Registered Entities

The wording used here is “Total Payment to Registered Entities”.

The guidance note issued by ICAI states that the amount to be reported here should be the sum total of amount of expenditure reported under columns 3, 4 and 5.

Is that what is expected?

If Yes, why the wording is not “Total Expenditure from Registered Entities” instead of “Total Payment to Registered Entities”?

## Column – 7: Expenditure relating to entities not Regd. under GST

Value of inward supply of Goods / Services received from unregistered persons to be reported here.

Guidance note issued by ICAI states that the sum total of amounts reported in column 6 and 7 should form the amount to be reported in column no. 2

Should it not be

Sum Total of amounts reported in Column 3, 4, 5 and 7


## Some practical issues which need Consideration!

1. The effects of Credit and Debit notes.
2. Treatment of Provision for Expenditure. Especially at the time of Completion of Construction project or Warranty Claims.
3. What about the Advance paid to Creditors (Registered or Unregistered).
4. Amount of Capital Expenditure incurred.
5. If the reporting entity is a branch, treatment for Value of inward supply of services where ITC is claimed through ISD.

## Some practical issues which need Consideration!

6. Expenditure not recorded through Purchase / JV and Direct Entries through bank.
7. Disclose the method used for reporting.

# Relevance of information reported in Clause 44 from GST Perspective.

16	Information on supplies received from composition taxpayers, deemed supply under section 143 and goods sent on approval basis					
	Details	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
	1	2	3	4	5	6
A	Supplies received from Composition taxpayers					
B	Deemed supply under Section 143					
C	Goods sent on approval basis but not returned					



# Some standard Disclosures / Disclaimers / Remarks which could form part of 3CA / 3CB.

- Expenditure of personal nature whether from a registered or an unregistered entity and debited to Capital Account is not considered for reporting under Clause – 44 of Form 3CD.
- Classification of the supplying entity as registered or otherwise is ascertained from the records maintained by the reporting entity in the accounting software / system.
- Total Expenditure relating to entities falling under composition scheme has been determined based on the information gathered through the accounting records of the entity.

# Some standard Disclosures / Disclaimers / Remarks which could form part of 3CA / 3CB.

- Breakup of Expenditure on goods or services falling under Schedule III of the CGST Act is reported under Column 5 and 7 depending on the status of registration of supplying entity.
- Breakup of Expenditure on goods or services requiring payment under RCM is reported under Column 5 and 7 depending on the status of registration of supplying entity.
- Expenditure on import of goods or services has not been considered for reporting under clause 44 of Form 3CD as the supplying entity is falling in non-taxable territory.

# Some standard Disclosures / Disclaimers / Remarks which could form part of 3CA / 3CB.

- Reimbursement of actual Expenditure to the employees are reported under column 7 of the table irrespective of the status of registration of ultimate supplying entity.
- Total Payment to Registered Entities reported in column 6 is the sum total of column 3 4 and 5. Total payment is taken as Total Expenditure and Advance payments to Suppliers over and above the expenditure recorded in the books of account is not considered for reporting purposes.

# Some standard Disclosures / Disclaimers / Remarks which could form part of 3CA / 3CB.

- In cases where the ultimate supplying entity is not identifiable, no expenditure incurred / recorded in the books of accounts vide year end provisions have been considered for reporting under Clause – 44 of Form 3CD.

# Sample Bifurcation

- [Classification](#)



**THANK YOU!**