



Presumptive Tax System – An Evaluation

Dr. S. P. Agrawal*

In order to bring simplicity, transparency, minimizing litigation, and widening tax base, Government is continuously trying his level best by providing various options to the assesseees. Presumptive tax system is one of them provided by Government. As we know due to availability of various exemptions/ deductions and expenses related to business, calculation of tax liability for a person having basic knowledge of Income Tax became complicated. Hence, he was compelled to take the expert opinion. But by availing presumptive tax system he can do needful easily without the help of any expert of income tax.

For simplifying calculation of income from business under presumptive tax, income tax is computed on certain assumptions implied that payment of income tax is not made on actual income but on the basis of certain percentage of gross turnover. Ordinarily income tax is computed from the income from business after deducting expenses related to business from gross turnover followed by deducting various exemptions and deductions. Tax liability is computed followed by payment of tax and filling of Income Tax Return. So, under this presumptive system simply certain percentage of gross turnover is treated income and on that assessee will have to make the payment of tax. Provision regarding that is given in following sections as follows:

Computation of Business Income on Estimated Basis [U/S 44AD]

From assessment year 2011-12 certain assesseees were exempted to maintain their books of accounts as required u/s 44 AA, subject to fulfillment of certain conditions, but engaged in business were allowed to compute their business income calculated at 8% only of his total turnover or gross receipt, so it can be said this section is used for calculation of income not income tax. This is the minimum rate of income though assessee may take profit more than 8% of the turnover.

Eligible Assesseees

1. Assessee may be resident Individual,
2. Assessee may be Resident Hindu Undivided Family and
3. Assessee may be Partnership Firm but not being Limited Liability Firm.

Not Eligible Assesseees

1. Non Resident can not avail,
2. Partnership firm being Limited Liability Partnership,
3. Company and
4. Association of Persons/Body of Individuals.

Professor, Faculty of Commerce, B. H. U. Varanasi 221 005 (U. P.)*

Conditions:

1. Assessee has not claimed any deduction u/s 10A, 10AA, 10B, 10BA and 80RRB.
2. Assessee should not be engaged in the business of plying, hiring or leasing of trucks covered by section 44AE.
3. Assessee's total turnover or gross receipts in the relevant period (previous year) should not exceed Rs.2 Crore (Rs. 1 Crore up to Assessment Year 2016 – 2017).

Implications of accepting this scheme:

1. He will have to pay 8% of the total turnover or gross receipt though he may pay more tax than 8 per cent of gross turnover.
2. If assessee accepts this section then it is presumed that all provisions regarding calculation of business income have been taken. Thus, for the purpose of computing written down value of the block of assets at the end of the previous year shall be deducted from the value of block of assets. But, in case of Partnership Firm, salary or any other remuneration paid to working partners and interest on capital to partners [as applicable u/s 40 (b)] shall not be allowed out of estimated business income of 8 per cent (It is pertinent to mention here that above payment to partners were allowed up to assessment year 2016-2017).
3. In case assessee want to show less income (than 8% of total turnover) then he will have to maintain proper books of accounts as per sec 44AA and has to get his books of accounts audited u/s 44AB. Then assessee will have to submit his Income Tax Return electronically with digital signature.
4. The income computed as per section 44AD shall only be business income of the assessee. In order to find out total income of the assessee's other incomes will be added in presumptive income.
5. Assessee can claim deduction related to Chapter 6 (u/s 80), Losses of any other heads can be adjusted.
6. This section will not apply on the following persons
 - i. Person's earnings nature is commission or brokerage.
 - ii. Person's carrying on agency business.
 - iii. Person's carrying on profession as given in Sec 44AA(1)
 - iv. Person's carrying on specified professions mentioned in Section 44AA(1) is as under:
 - (a) The profession of authorized representative,
 - (b) The profession of film artists and
 - (c) The profession of information technology.

Restrictions for availing the scheme

Where an eligible assessee declares profit for any previous year in accordance with the provisions of this section and then he will have to declares profit in next five consecutive assessment years relevant to the previous year succeeding such previous year which is not in accordance with the provisions of sub- section (1) of this section, 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).

It may be made clear with the help of following imaginary example: If Mr A accepted presumptive tax (u/s 44AD) in financial year 2016-2017 then he will have to accept this for

next 5 years namely financial year 2017-18, 2018-19, 2019-20, 2020-21 & 2021-22. But if due to any reason if Mr A not taken benefit of this section in any of the said financial year then he cannot shift again in this section in subsequent 5 financial years. Suppose Mr A not took the benefit of 44AD in 2019-20 then he cannot shift in this section up to 2020-21, 2021-22, 2022-23, 2023-24 & 2024-25. So, its impact on Mr. A will be that, he will have to maintain their books of accounts properly and get audited them by qualified person.

Advance Payment of Tax

Need not to make advance payment tax but 100% tax is to be paid before on or before 15th of March otherwise interest u/s 234C is payable.

Filing Income Tax Return

If accepted u/s 44AD then assessee will have to file his income tax return in ITR 4 (SUGAM) before 31st of July but if not covered under this section then assessee will have to maintain books of accounts (If turnover exceeds Rs. 1 Crore then will file his return up to 30th September) and get audited them.

Consequences of declaring lower income:

1. Assessee will not be eligible to claim the benefit of Section 44AD for subsequent 5 consecutive financial years from that financial year when declared profit less than 8%.
2. Assessee will have to maintain proper books of accounts.
3. Assessee will have to get audited his books of account under section 44AB irrespective of the turnover.

Computation of Professional Income on Presumptive Basis [U/S 44ADA]

This section applies on the specified professionals might be resident individual, Hindu Undivided Family and Partnership Firm (but not being Limited Liability Firm). Whose gross receipt during previous year is not more than Rs.50 lakh and interested to take 50% or more of the total gross receipts as profit and gain from profession. Detail provision is as follows:

Eligible Assessee being specified Professional

1. Assessee may be resident Individual,
2. Assessee may be Resident Hindu Undivided Family and
3. Assessee may be Partnership Firm but not being Limited Liability Firm.

Assessee Not Eligible

1. Non Resident can not avail,
2. Partnership firm being Limited Liability Partnership,
3. Company and
4. Association of Persons/Body of Individuals.

Followings assesses are covered under Specified Professionals:

1. Legal services
2. Medical services
3. Engineering and architectural services
4. Accountancy services
5. Technical consultancy services
6. Interior Decoration services
7. Film Artists
8. Certain Sports related Persons
9. Company Secretaries

10. Information Technology Professionals
11. Any other profession declared by CBDT.

Condition for applicability of this section:

1. Gross receipts should not exceed Rs.50 lakh in that previous year and
2. Take 50% or more of the total gross receipts as profits and gains from profession.

If assessee fulfills above conditions then need not to prepare proper books of accounts.

Implications of accepting this scheme:

1. He will have to take 50% of the gross receipts or more of as income.
2. If assessee accepts this section then it is presumed that all provisions regarding calculation of business income have been taken. Thus, for the purpose of computing written down value of the block of assets at the end of the previous year shall be deducted from the value of block of assets. But, in case of Partnership Firm, salary or any other remuneration paid to working partners and interest on capital to partners [as applicable u/s 40 (b)] shall not be allowed out of estimated business income of 50 per cent.
3. In case assessee want to show less income (than 50% of gross receipts) then he will have to maintain proper books of accounts as per sec 44AA and has to get his books of accounts audited u/s 44AB.
4. Then assessee will have to submit his Income Tax Return electronically with digital signature.
5. The income computed as per section 44ADA shall only be professional income of the assessee. In order to find out assessee's total income other income will be added in it.
6. Assessee can claim deduction related to Chapter 6 (u/s 80), Losses of any other heads can also be adjusted.

Advance Payment of Tax

Need not to make advance payment tax but 100% tax is to be paid before on or before 15th of March otherwise interest u/s 234C is payable.

Filing Income Tax Return

If accepted u/s 44ADA then assessee will have to file his income tax return in ITR 4 (SUGAM) before 31st of July but if not covered under this section then assessee will have to maintain books of accounts and will get audited them.

Consequences of declaring lower income

Assessee will have to maintain proper books of accounts and get audited them under section 44AB irrespective of the turnover.

Profit From The Business of Carriage of Goods For Truck Owners [Section 44 AE]

This section is mainly meant for small transporters who cannot maintain books of accounts and engaged in transport business, but only those transporters who are having not more than 10 goods carriage at any time during the previous year and who is engaged in the business of plying, hiring or leasing such goods carriages their profits will be determined as follows. It is very much beneficial for small transporter.

Implications of accepting this scheme

1. According to this section Rs.7500 per month (or part of a month) per vehicle for all types of goods carriages (Whether assessee has derived any income or not) will be treated as income though actual income may be shown more than that. It also provides an anti-avoidance clause

stating that a prescribed fixed sum or a sum higher than the aforesaid sum can be claimed shall be deemed to be profit and gains of such business.

2. If assessee accepts this section then it is presumed that all provisions regarding calculation of business income have been taken. Thus, for the purpose of computing written down value of the block of assets at the end of the previous year shall be deducted from the value of block of assets. In case of Partnership Firm, salary or any other remuneration paid to working partners and interest on capital to partners shall be given
[As per section 40 (b)].
3. In case assessee want to show less income then he will have to maintain proper books of accounts as per sec 44AA and has to get his books of accounts audited u/s 44AB.
4. Assessee will have to submit his Income Tax Return electronically with digital signature.
5. The income computed as per section 44AE shall only be profit from business of carriage of goods. In order to find out assessee's total income other income will be added in it.
6. Assessee can claim deduction related to Chapter 6 (u/s 80), Losses of any other heads can also be adjusted.

Advance Payment of Tax

Need not to make advance payment tax but 100% tax is to be paid before on or before 15th of March otherwise interest u/s 234C is payable.

Filing Income Tax Return

If accepted u/s 44ADA then assessee will have to file his income tax return in ITR 4 (SUGAM) before 31st of July but if not covered under this section then 30th September.

Consequences of declaring lower income

Assessee will have to maintain proper books of accounts and get audited them under section 44AB irrespective of the turnover.

Conclusion

Thus, it may be concluded that for bring simplicity, transparency, minimizing litigation, and widening tax base, Government is continuously trying his level best by providing various options to the assessee. Presumptive tax system is a good effort of Government side as we know due to availability of various exemptions/ deductions and expenses related to business, calculation of tax liability for a person having basic knowledge of Income Tax becomes complicated. Income from business under this scheme is computed on certain assumptions implied that payment of income tax is not made on actual income but on the basis of certain (presumption) percentage of gross turnover and on that assessee will have to make the payment of income tax. It can be said this scheme is boon for the small businessmen (U/S 44AD), for professionals whose gross receipt is not more than Rs.50 lakh (U/S 44ADA) and small transporters having up to 10 small or big trucks (U/S 80AE).

References:

Income Tax Act as amended time to time