



NEWS LETTER

2023 May

Issue 5

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- Taxation of Charities under IT Act - Recent Developments

FROM THE CHAIRMAN'S DESK

Esteemed Professional Colleagues,

As one of the most reliable, trusted professionals the roles and responsibilities of Chartered Accountants are increasing phenomenally; let us continue to serve the Profession and Nation with utmost dedication and perseverance. In the days to come we may be obliged to play multifaceted roles in empowering the society with our skills and wisdom, for which we as Professionals should continuously evolve and keep us updated with the latest changes & developments.

STUDY CIRCLE MEETINGS

With a vision to empower our younger generation Chartered Accountants, I invite the newly-qualified Members to volunteer themselves in addressing the CA fraternity in Study Circle Meetings. Past Chairmen of our Branch created this concept of "Study Circle Meetings" with an idea for discussions and deliberations. Certainly, Study Circle Meetings will provide good platform for the interested members to develop their presentation skills; I invite interested members to mail their Profiles to coimbatore@icai.org to address in the meetings.

ANNUAL SEMINAR SERIES 2023

While I thank Members for registering under the Annual Seminar Series, I sincerely request Members who are yet to register to kindly register at the earliest. The registration fee is Rs.7,500/- (incl. GST). Please transfer the fee to our bank account, mention your name & membership number in the "remarks" column, and mail the details to coimbatore@icai.org, also submit the Google Form <https://tinyurl.com/ac7ujvn6> for updating our records.

FORTHCOMING CPE PROGRAMS

Kindly note, for the month of May, CPE Study Circle Meetings, One Day CPE Seminar are planned, the details are given in the newsletter, kindly make note and please participate in all the events. I am also pleased to inform you that the Two Days Residential Refresher Course at KKID, Coimbatore will be held on 10th & 11th June 2023, kindly block your dates, detailed program invitation will be shared.

CPE CREDIT HOURS

Please note, in the Council Meeting held in March 2023, it has been decided that CPE hours requirement to be fulfilled by a Members on Calendar Year Basis (from 1st Jan till 31st Dec every year) only and the block/rolling period concept of three years is done away with. The same is applicable from Calendar Year 2023 onwards. Therefore, members are required to complete their CPE hour requirements on the calendar yearly basis from the year 2023 onwards in accordance with the CPE hour requirements given below and available at the <https://resource.cdn.icai.org/73566cpe59376.pdf>.

During the month of April, we organized CPE Study Circle Meetings and a Seminar in which CA. R. Adithya, CA. R. Harish, CA. Naveen Prabhu, Mr. L. Kaaja Hussain and CA. V. Ramnath addressed the Members. I thank all of them for sparing their time and sharing their knowledge & wisdom with us. Please note, for the month of May 2023 various activities are planned and will be informed to you, kindly plan your program and please participate in all the events.

Please share your valuable suggestions and give us your feedback for the betterment of our branch activities. I seek your continuous support and cooperation in all our future endeavours

With Best Regards,

CA. D. Nagakumar

Chairman



Bulletin Editor :
CA. R. Harish

CAREER COUNSELLING PROGRAMME AT CODISSIA



MEMBERS ADDRESSING IN VARIOUS CPE PROGRAMS





INDIA UNVEILS FOREIGN TRADE POLICY 2023

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India unveils Foreign Trade Policy 2023

Foreign Trade Policy is a set of guidelines and instructions established by the DGFT in matters related to the import and export of goods in India. The Government of India, Ministry of Commerce and Industry announces Export Import Policy every five years. The prevailing FTP (2015-20) came into force w.e.f 01/04/2015. FTP 2015-20 which was to end on 31.3.2020 was extended due to COVID pandemic and volatile geo-political scenario till 31.03.2023. The unveiled new policy shall come into force with effect from 1st April, 2023 and shall continue to be in operation unless otherwise specified or amended.

The futuristic significant changes are;

1. Reduction in processing time and immediate approval of applications under automatic route for exporters.

Permission type	Current processing time	Automatic route processing time
Advance authorization issuance	3 to 7 days	1 day
EPCG issuance	3 to 7 days	1 day
Revalidation of authorizations	3 days to 1 month	1 day
Extension of Export Obligation period	3 days to 1 month	1 day

2. Application fee being reduced for Advance Authorization and EPCG Schemes Will benefit 55 60% of exporters who are MSMEs. Amounts in Rupees.

Licence Value in Rupees	User charges for non-MSMEs	Reduced User charges for MSMEs
Up to 1 crore	1 per 1,000	100
1 crore to 10 crores	1 per 1,000	5,000
Above 10 crores	Cap at 1,00,000	5,000

3. Revamp of the e-Certificate of Origin (CoO) platform proposed- to provide for self- certification of CoOs as well as automatic approval of CoOs, where feasible. Initiatives for electronic exchange of CoO data with partner countries envisaged.
4. All authorisation redemption applications to be paperless – This is in addition to application process for issuance being already paperless. With this, the entire lifecycle of the authorization shall become paperless.
5. Export performance threshold for Recognition of Exporters as Status Holders rationalized. Enabling more exporters to achieve higher status and reduced transaction cost for exports



(In USD Million)

Status House Category	Existing Export Performance Threshold	Revised Export Performance Threshold
One Star	3	3
Two Star	25	15
Three Star	100	50
Four Star	500	200
Five Star	2000	800

6. Merchanting trade involving shipment of goods from one foreign country to another foreign country without touching Indian ports, involving an Indian intermediary is allowed subject to compliance with RBI guidelines, except for goods/items in the CITES and SCOMET list.
7. FTP benefits extended for rupee realisations through special Vostro accounts setup as per RBI circular issued on 11 July 2022.
8. All pending cases of default in Export Obligation (EO) of authorizations mentioned can be regularized by the authorization holder on payment of all customs duties exempted in proportion to unfulfilled Export Obligation and maximum interest is capped at 100% of such duties exempted. However, no interest is payable on the portion of Additional Customs Duty and Special Additional Customs Duty. Amnesty scheme shall be available for a limited period, up to 30.09.2023. Cases under investigation for fraud and diversion are not eligible under this scheme.
9. To reduce transaction and handling costs, a single window system to facilitate export of perishable agricultural produce is being facilitated through Agricultural and Processed Food Products Export Development Authority (APEDA).
10. Prime Minister Mega Integrated Textile Region and Apparel Parks (PM MITRA) scheme has been added as an additional scheme eligible to claim benefits under CSP(Common Service Provider) Scheme of Export Promotion capital Goods Scheme(EPCG).
11. Dairy sector to be exempted from maintaining Average Export Obligation – to support dairy sector to upgrade the technology.
12. Battery Electric Vehicles (BEV) of all types, Vertical Farming equipment, Wastewater Treatment and Recycling, Rainwater harvesting system and Rainwater Filters, and Green Hydrogen are added to Green Technology products – will now be eligible for reduced Export Obligation requirement under EPCG Scheme
13. Special Advance Authorisation Scheme extended to export of Apparel and Clothing sector under para 4.07 of HBP on self-declaration basis to facilitate prompt execution of export orders – Norms would be fixed within fixed time-frame.
14. Benefits of Self-Ratification Scheme for fixation of Input-Output Norms extended to 2 star and above status holders in addition to Authorised Economic Operators at present.
15. Fruits and Vegetables exporters are being included for double weightage for counting export performance under eligibility criteria for Status House certification. This is in addition to existing MSME sector who also get double weightage.
16. Recent policy changes introduced such as general authorizations for export of certain SCOMET items (Special Chemicals, Organisms, Materials, Equipment and Technologies) to streamline licensing of these items to make export of SCOMET items globally competitive. Focus on simplifying policies to facilitate export of dual use high end goods/technology such as UAV/Drones, Cryogenic Tanks, Certain chemicals etc.
17. Full text of the FTP can be accessed at <https://www.dgft.gov.in/CP/>.



Taxation of Charities Under IT Act - Recent Developments

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Topics for discussion

- Part - I - (Re)Registration u/s. 12AB/10(23C)/80G
- Part - II - Disqualification & consequences
- Part - III - Computation of Income
- Part - IV - Filing ROI, Forms, Reports
- Part - V - Others (including Sec 80G & case laws)

Part - I - (Re)Registration u/s. 12AB/ (Re) Approval u/s. 10(23C) (Re) Recognition u/s 80G

Provision existed earlier - Sec u/s. 12A

- Section 12A - granting registration upto 1999
- Section 12AA - granting registration upto 2021
- Once granted - perpetual - except when cancelled u/s.
 - 12AA(3) - activities **not genuine** - carried out **not in accordance with objects**
 - 12AA(4) - due to **application of sec 13(1)** - **not complying with the requirement of any other law**, material to achieve the objects of the trust/institution
- Cancellation may lead to invoking of sec 115TD
 - Taxability **at MMR** of all past **untaxed surplus** and **revaluation surplus** of all assets on the date of invoking sec 115TD (Except assets acquired out of agricultural income)
- Collection of capitation fee from students - not eligible for regn u/s. 12AA
 - **Travancore Education Society - 431 ITR 50(SC)**

Provisions existed earlier - sec 10(23C)

- | | |
|---|---|
| <p>Medical / educational institutions</p> <ul style="list-style-type: none"> • I - wholly / substantially funded by government - exempt • II - gross receipts not exceeding Rs.1 Crore - exempt • III - Other than I or II above - exempt subject to approval by prescribed authority <ul style="list-style-type: none"> • Approval required to be renewed once in 5 years | <p>Charitable / Religious Institutions</p> <ul style="list-style-type: none"> • Institutions exempt subject to approval by prescribed authority <ul style="list-style-type: none"> • Approval required to be renewed once in 5 years |
|---|---|

Provisions existed earlier - sec 80G(5)

- Donor would get deduction u/s. 80G where the donee charitable institutions have approval u/s. 80G(5)
- Upto 31-03-2009, approval would be granted for a maximum period of 5 years and periodic renewal necessary.
- After 1-4-2009, approval **is perpetual unless cancelled**

Charities -Change in procedure - w e f 1-4-21

Type of cases	Position upto 31.03.2021	Position on or after 01.04.2021
Registration u/s. 12A/12AA/(12AB)	Perpetual (unless cancelled)	Periodically renewable
Approval u/s.10(23C)	Periodically renewable	Periodically renewable
Approval u/s. 80G	Perpetual (unless cancelled)	Periodically renewable

Charities – New Procedure for regn – s.12AB

Type of cases	Time limit to file application by applicant	Time limit to dispose the application by (P)CIT	Exemption Type/period
Existing registered 12A/12AA as at 01.04.2021	cases u/s. 12A/12AA as at 01-04-2021 in Form No:10A	Within 3 months from the end of the month in which the application was received – In Form No: 10AC	Regular exemption for a period of 5 years (FY 2021-22 to FY 2025-26)
Procedure	No questions would be asked – automatic renewal		
Renewal of the approval granted u/s. 12AB	6 months prior to expiry of the approval already granted in Form No: AB	6 months from the end of the month in which the application was received – In Form No: 10AD	5 years
Procedure	CIT would call for details/make inquiries If satisfied about genuineness of activities & compliance of laws, renewal If not satisfied, rejection of application /cancellation of regn		



Charities – New Procedure for regn – s.12AB

Type of cases	Time limit to file application by applicant	Time limit to dispose the application by (P)CIT	Exemption type/period
Modification /adoption of the objects not confirming to the regn	30 days from the date of modification or adoption of the objects – In Form No: 10AB	6 months from the end of the month in which the application was received – In Form No: 10AD	5 years
Procedure	CIT would call for details/make inquiries If satisfied, renewal If not satisfied, rejection of application /cancellation of regn		
Annexure to Form No:10B Clause 12			
1. Whether the auditee has adopted or undertaken modification of the objects Y/N			
2. If yes,			
A. Date of such modification			
B. Whether the application for registration has been made within the stipulated time of 30 days			
C. If yes, provide the following details			
Date of application, Status of regn, Date of regn/cancellation based on such appln, URN of such regn			

Charities -Procedure of regn - s.12AB (1-10-23)

Type of cases	Time limit to file application by applicant	Time limit to dispose the application by (P)CIT	Exemption type/period
Cases applied u/s. 12AB where activities commenced but no claim u/s. 10(23C) or 11&12 on the date of appln	any time after commencement of activities - In Form No:10AB	6 months from the end of the month in which the application was received – In Form No: 10AD	5 years beginning with the AY for which registration granted
Procedure	CIT would call for details/make inquiries If satisfied about genuineness of activities & compliance of laws, registration If not satisfied, rejection of application		

Charities – New Procedure for regn – s.12AB

Type of cases	Time limit to file application by applicant	Time limit to dispose the application by (P)CIT	Exemption type/period
New cases applied u/s. 12AB	At least one month before the commencement of PY relevant to the AY for which exemption is sought – In Form No:10A	Within one month from the end of the month in which the application was received – in Form No: 10AC	Provisional registration – exemption granted for 3 years beginning with the AY relevant to the FY in which application is made
Procedure	No questions would be asked – automatic provisional regn		
Provisionally registered cases – applying for regular registration	a) 6 months prior to the expiry of approval or b) 6 months after commencement of activities whichever is earlier - In Form No:10AB	6 months from the end of the month in which the application was received – In Form No: 10AD	5 years beginning with the AY for which provisional registration granted (two step approach for first time applying cases)
Procedure	CIT would call for details/make inquiries If satisfied about genuineness of activities & compliance of laws, renewal If not satisfied, rejection of application /cancellation of regn		

Charities - New procedure for regn - S.12AB

- The order of (P)CIT rejecting the application and cancelling the registration is appealable to ITAT - Sec 253.
- The procedure mentioned for trust covered u/s. 12A/12AA/12AB would equally apply for the institutions seeking approval u/s. 10(23C) and sec 80G.
- Consequences of cancellation of existing registration/ approval
 - Application of Sec 115TD.
- Consequences of non-renewal
 - Application of Sec 115TD

Provisional regn cases – commencement of activities – Form No:10B – Cl 13

- In case of provisional regn, whether activities commenced during the year?
- If yes,
 - a. Date of commencement of activities
 - b. Whether the application for regn has been filed?
 - i) If yes, provide following details
Date of application, status of regn (pending/granted/cancelled), date of regn/cancellation based on appln, URN of regn.

PART - II - DISQUALIFICATION & CONSEQUENCES

Charities –Procedure for regn – s.12AB – (1-10-23)

Type of cases	Time limit to file application by applicant	Time limit to dispose the application by (P)CIT	Exemption type/period
New cases applied u/s. 12AB Where activities not commenced	At least one month before the commencement of PY relevant to the AY for which exemption is sought – In Form No:10A	Within one month from the end of the month in which the application was received – in Form No: 10AC	Provisional registration – exemption granted for 3 years beginning with the AY relevant to the FY in which application is made
Procedure	No questions would be asked – automatic provisional regn		
Provisionally registered cases – applying for regular registration	a) 6 months prior to the expiry of approval or b) 6 months after commencement of activities whichever is earlier - In Form No:10AB	6 months from the end of the month in which the application was received – In Form No: 10AD	5 years beginning with the AY for which provisional approval granted
Procedure	CIT would call for details/make inquiries If satisfied about genuineness of activities & compliance of laws, renewal If not satisfied, rejection of application /cancellation of regn		

Power to cancel registration by (P) CIT - S 12AB(4)

- (P)CIT can assume jurisdiction only when
 - He has noticed occurrence of one or more specified violations
 - He has received a reference from the AO u/s. 143(3) - second proviso
 - The case has been selected under RMS for any PY
- After assuming the jurisdiction, (P)CIT can
 - Call for documents, info to satisfy himself about occurrence or otherwise of specified violation
 - Pass order cancelling the regn for the said PY and all subsequent PYs if he is satisfied that one or more specified violation has taken place
 - Pass order refusing to cancel the regn if he is satisfied that one or more specified violation had not taken place
 - Forward the copy of the order to AO and assessee
- Order to be passed within 6 months from the end of the quarter in which the first notice received calling for info, documents, etc



Specified violation - sec 12AB(4) - Expl

- Activity is not genuine
- Activity not carried out in accordance with the **conditions of regn**
- Not complying with any law material for achieving the objects (order not appealed or attained finality)
- Income applied other than for objects of the trust
- Income applied for private religious purposes
- Income applied for a particular religious community or caste (Cl. 43 of Form No:10B)
- Derives income from business which is not incidental to its objects
- Derives income from business incidental to its objects but separate books are not maintained for it
- **the application is not complete or it contains false or incorrect information (w e f 1-4-2023).**

Meaning of accreted Income - contd...

- Meaning of **Specified date**,

When there is	Specified date is
Cancellation of registration	date of order of cancellation
Modification of objects	date of adoption/modification of objects
Merger into another trust	date of merger
Failure to distribute to another trust within twelve months	date of dissolution
Failure to make application for renewal	Last date for making such application for renewal (w e f 1-4-2023)

Consequences of cancellation - S.115TD

- Sec 115TD would apply, if the trust
 - **Converts** into another form not eligible for registration u/s. 12AA/12AB
 - **Merges into another trust** which does not have
 - similar objects **and**
 - registration u/s. 12AA/12AB
 - Upon dissolution, **fails to transfer all its assets**, within twelve months from the end of the month of dissolution, to another trust having registration u/s. 12AA/12AB or approval u/s. 10(23C)
- Consequences - tax on accreted income @ MMR

FMV of assets / liabilities - as per B/S on **specified date** (audited) - Rule 17CB

- Asset **shall not include**
 - Income tax / deferred expenses
- Shares - quoted - as per quote
- Shares - unquoted - similar to Rule 11UA
- Immovable properties - higher of SDV and value as per Registered valuer report
- Others - FMV as per Registered valuer report
- Liabilities - as per b/s but **does not include**
 - Capital/corpus/any other fund
 - Accumulated reserves
 - Provision for
 - Unascertained liabilities
 - Contingent liabilities
 - Income tax
- **Note: In case of dissolution of trust, assets transferred to another trust within 12 months shall be excluded**

Tax on Accreted Income - sec 115TD

- Meaning of **conversion** into another form not eligible for registration u/s. 12AA/12AB
 - Registration u/s. 12AA/12AB or approval u/s. 10(23)(iv/v/vi/via) **cancelled**
 - Adopted / undertaken **modification of objects** which do not conform to the conditions of registration and
 - Not applied for fresh registration in the previous year of change **OR**
 - Fresh application is rejected
 - **Fails to make application for renewal within the specified period (w e f 1-4-2023)**
 - Existing cases, provisional regn cases

Tax on accreted income - time of payment

Scenarios	Payment to be made within 14 days from
In case of cancellation of registration	a) When no appeal filed, the time to file appeal to ITAT expires b) When appeal is filed, the date of receipt of appeal order confirming the cancellation
In case of modification or adoption of objects	a) When application for fresh registration rejected
a) When application for fresh registration rejected	a) When no appeal filed, the time to file appeal to ITAT expires b) When appeal is filed, the date of receipt of appeal order confirming the rejection
b) When no application for fresh registration filed	The end of the financial in year in which adoption/ modification of objects takes place

Meaning of accreted income

- On the "**specified date**"
- Aggregate **fair market value** of the Total assets **XXXX**
- Less: FMV of Assets directly acquired out of agricultural income u/s. 10(1) **XXXX**
- FMV of Assets acquired prior to regn **XXXX** **XXXX**
- Net assets **XXXX**
- Less: The liabilities **XXXX**
- Accreted income **XXXX**

Tax on accreted income - time of payment

Scenarios	Payment to be made within 14 days from
In case of merger into another ineligible trust	Date of merger
In case of non - distribution of assets to eligible trust or institution within 12 months	Date on which period of 12 months expires



Tax on accreted income - Other points

- Notwithstanding that no income tax payable by trust, tax on Accreted Income is payable
- Tax on Accreted Income is final payment and credit shall not be given for such tax payment to the trust or any other person
- No deduction shall be allowed under any other provisions of the Act to the trust or any other person
 - In respect of income computed (AI) OR
 - Tax thereon
- Delayed payment of tax invites interest @ 1% pm or part thereof - sec 115TE
- Non payment - Principal officer - AID - Asset transferred - Recipient trust is AID to the extent of asset received - Sec 115TF

Amendment w r to Computation

- Deficit b/f from earlier year on account of excess application of income cannot be given deduction, set off, allowance in computing the current year's application of income - Explanation 5 to Sec 11(1)
- Corpus u/s. 11 (1)(d) - allowable only when the amount is invested or deposited in the mode specified u/s. 11(5)
- Amount applied out of the following shall not be regarded as application of income
 - Corpus - cl (i) of Expl 4 to Sec 11(1)
 - Loan/borrowing Cl (ii) of Expl 4 to sec 11(1)

PART - III - COMPUTATION OF INCOME

Amendment w r to Computation

- In the subsequent year, the amount shall be regarded as application of income
 - Corpus invested in a mode u/s. 11(5) - proviso to Expl 4 (i) to sec 11(1)
 - Repayment of loan/advance - proviso to Expl 4 (ii) to Sec 11(1)
- In the year of application, no violation of
 - a) Donating as corpus to another trust/ income applied outside India.
 - b) Sec 40A(3/3A) or sec 40(a)(ia)
 - c) Loss b/f not set off
 - d) Recoup within 5 years from the end of the year of application
 - e) Sec 13(1)(c)
 - f) Applied by payment of cash

Alternate claim - status of law - sec 11(7)

- W.e.f. 1-6-2020,
- a) the registration u/s. 12A /12AA would be inoperative if approval u/s. 10(23C) is in force (first proviso to sec 11(7))
- b) If the institution wishes to have the registration u/s. 12AA/12AB, it may apply but after its registration, the approval u/s. 10(23C) would cease to have its effect (Second proviso to sec 11(7))
- Hence, the claim u/s. 11/12 or 10(23C)(iv/v/vi/via) are **mutually exclusive**
- However, the claim u/s. 11/12 and 10(23C)(iiiad/iiiiae) **are not mutually exclusive**
- institutions having gross receipt not exceeding Rs.1 crore (from FY 2021-22 - limit increased to Rs.5 crore) from medical/educational institutions may continue get benefit u/s. 10(23C)(iiiad/ae) and for other activities of the institutions, benefit of sec 11/12 can be availed.

Amendment w r to Computation

- Application of income - Only when it is paid (irrespective of method of accounting) - subsequent year cannot be claimed again (w e f AY 2022-23) - Expl below 11(7)
- Books are maintained **in such form and at such places** as may be **prescribed** (w e f AY 2023-24) - Sec 12A(1)(b)
- Rule 17AA prescribes the Books and documents to be kept and maintained - **Notification No: 94/2022 dated 10-08-2022**

Amendment w r to Computation

- Donation to **any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv)/(v)/(vi)/(via) of clause (23C) of section 10** or trust or institution registered under sec 12AA/12AB towards corpus shall not be treated as application of income - Explanation 2 to sec 11(1)
- Donation to any fund or trust or institution mentioned above - other than corpus - shall be treated as application only to the extent of 85% of amount paid/credited - Cl (iii) of Expl 4 to sec 11(1) - w e f 1-4-2024 (**balance 15% would be income**)

Rule 17AA - Books and documents prescribed - (see table 14 of Annexure to Form no: 10B)

- SR(1) - books and documents required to be maintained
- SR(2) - Books, Documents may be kept in **written form or in electronic** form or digital form or print outs of data stored in electronic or digital form or any other form of electromagnetic storage device
- SR(3) - Books, Documents to be kept at its registered office (if other than registered office - Copy of the resolution of management, **within 7 days** of passing such resolution, to be signed by authorised signatory - sec 140 - given to JAO.
- SR(4) - books, documents to be kept for **10 years** from the end of RAY



Rule 17AA - Books and documents prescribed - (see table 14 of Annexure to Form no: 10B)

- Books of account (cash book, ledger, journal, copies of bills, etc)
- Books of account – for business – sec 11(4)
- Books of account – for business other than sec 11(4)
- Other documents
 - Projects run (Name address objectives)
 - Record of income of the PY
- Other documents
 - Out of the income of PY – record of application, accumulation Etc
 - Out of the income of Preceding PYs record of application, accumulation, etc.,
 - Record of VC towards corpus
 - Record of VC for repair of temple, etc
 - Record of loan /borrowing
 - Record of properties
 - Record of specified persons – S.13(3)
 - Any other documents

Amendment w r to Computation (Sec 13(10/11) - (cl.33 & 29 of Form No: 10B)

- Where Audit report or ROI not filed within time allowed u/s. 139(4A) or Proviso to Sec 2(15) applies, the income shall be computed after allowing expenditure for objects (other than capital expenditure) but without allowing
 - depreciation on asset claimed as application of income
 - Expenditure out of corpus fund at the beginning of the year,
 - Expenditure out of loan or borrowing,
 - Expenditure not in the form of contribution or donation to any person
 - On expenditure - sec 40(a)(ia) and Sec 40A(3)/(3A) would apply
- No set off of losses shall be allowed under other provisions of the Act.

Amendment w r to Computation - S. 115BBI (cl.33 & 29 of Form No: 10B)

- In case of violation of following conditions, income shall be chargeable to tax @ 30% (with applicable SC & E Cess)
 - Income accumulated in excess of 15% but not allowable
 - Income unutilised/mis-utilised etc u/s. 11(1B) or 11(3)
 - Income applied for specified person u/s. 13(1)(c)
 - Income remain invested in modes other than specified u/s. 11(5) - vide 13(1)(d)
- In computing the above income, no deduction towards, expenditure, losses or set off of losses shall be allowed
- In case of 13(1)(c) - only such income shall be chargeable - also penalty u/s. 271AAE - 100% of such sum (first time) -200% of such sum (subsequent years)

Time of Filing of ROI, Forms Reports

- Form 10 and 9A -to be filed **at least two months prior to the due date of filing of ROI u/s. 139(1) - i.e., 31st August**
- Form No:10B / 10BB - to be filed **one month prior to the due date of filing of ROI - 30th September**
- Form ITR -7 - within time allowed u/s. **139(1) or 139(4) (31st Oct or 31st Dec)**
 - Time not allowed upto filing of Updated ROI - 139(8A)
- Form ITR 7 - with Form No: 10 - within time allowed u/s. **139(1) (31st Oct) (sec 13(9))**

FORM No: 10B/10BB

- Form No: 10B where
 - the **total income** of such trust or institution, without giving effect to the provisions of sections 11 and 12 of the Act, **exceeds rupees five crores** during the previous year; or
 - such trust or institution has **received any foreign contribution** during the previous year; or
 - such trust or institution has **applied any part of its income outside India** during the previous year;
- Form No. 10BB in other cases. (annexure with 32 clause & 4 sch)
- Form No: 10B with (annexure with 49 clauses & 15 Sch)

Form No: 10B - Reporting requirements

- 15 & 16. Details of GPU
- 17. Unrelated business
- 18. Incidental business
- 19. TDS based business receipts
- 21 to 27. VC - break ups
- 28. other income
- 29 to 31. Application income (with party details for >50L payments)
- 36. Capital asset - income
- 37. Appli. out of past income
- 38. party details for >50L payments
- 40. Payment of religious nature
- 41. Details of 13(3) persons
- 42. Details of 13(2)
- 46. 269SS - Y/N
- 47. 269ST - Y/N
- 48. 269T - Y/N
- 49. TDS Compliance

Form No:10B - Schedule of Corpus

Details	Received on or after 1-4-2021	Received before 1-4-2021
Opening Balance	Xxx	Xxx
Received /Treated as corpus during the year	Xxx	Xxx
Applied during the year	Xxx	Xxx
Amount invested or deposited back into corpus (which was earlier applied and not claimed as application)	Xxx	Xxx
Financial year in which (4) was applied earlier		
Closing Balance	Xxx	Xxx
a. Invested in modes specified in section 11(5)	Xxx	Xxx
b. Invested in modes other than specified in sec 11(5)	Xxx	Xxx

PART - IV - FILING ROI, FORMS, REPORTS



Form No: 10B - Other Schedules

- Sch. FC – Foreign contribution
- Sch. LB – Loan and borrowing
- Sch. Int.app – income applied o/s India
- Sch. Deemed Application – Form 9A
- Sch. AC – accumulation – Form 10
- Sch. SP (a to g) – details of 13(2)
- Sch. Other law violation
- Sch. TDS disallowance 40(a)(ia)
- Sch. 40A(3) – disallowance
- Sch. 40A(3A) – disallowance
- Sch. 269SS – reporting
- Sch. 269ST – reporting
- Sch. 269T – reporting
- Sch. TDS (like 3cd)

General public utility - Ahd Urban Development authority - SC

- **Circulars not binding even on IT authorities, if contradiction to law.**
- Education – **by formal schooling** – Loka sikshana trust - 1975 ruling – SC
- Business held under trust Vs Business carried on by trust – Thanti Trust – explained
- In the course of carrying on objects – incidental business can be carried on – but subject to ceiling – 20% of total receipts
- “on cost basis” or “nominally above cost” allowed – significantly above cost – proviso applies and ceiling to be followed

PART - V - OTHERS (INCLUDING S. 80G & CASE LAWS)

General public utility - Ahd Urban Development authority - SC

- Statutory corporations – not liable
- Professional bodies (including ICAI) – GPU – markedly higher prices – proviso to sec 2(15) and 11(4A) applies
- Trade promotion bodies – GPU – Proviso to sec 2(15) and 11(4A) would apply
- **Running kalyanamandapan – at nominal rates – no issue – but higher rates – GPU – subjective**

Deduction of contribution to Charities - sec 80G

- Institutions recognised u/s. 80G shall
 - Furnish the statement electronically in **Form No. 10BD** annually giving the details of donation received
 - Furnish the statement on or before **31st of May of the succeeding financial year**
 - Get the statement verified by person (entitled to verify a return of such person u/s. 140) with EVC or DSC
 - Issue certificate to the donors in **Form No. 10BE** within **31st of May of the succeeding financial year**
- Failure to file the statement, issue certificate would invite
 - Fees payable u/s. 234G @ Rs. 200 per day of default (max - donation received) (**Not appealable**)
 - Penalty u/s. 271K - Rs.10000 to Rs.1 lakhs
- Donor would get deduction based on the statement filed by the donee - 35/80G/80GGA

Charitable/religious trust - certain decisions

- Benefit of registration - eligible for the earlier years - the year for which appeal pending on the date of registration also would qualify
 - (upto 31.03.2023) (3 proviso deleted w e f 1-4-2023)
 - Institute Management Committee (IMC) - 2020 (6) TMI 506 ITAT Bang
- In the absence of registration u/s. 12AA, only net income is taxable
 - Shree Jyoti Education & Management Trust - 2020 (6) TMI 296 ITAT CUTTACK

Educational institution - New noble Educational society - SC

- Existing **solely** - not to have any other objects in the charter documents (for sec 10(23C) approval cases - **but its impact in sec 10(23C)(iiiaad/iiaae) cases?**)
- CIT can inquire when application is pending (except for existing and new regn cases - as per sec 12AB)
- Incidental activities allowed - feeding charity - not incidental - **other income derived from outsiders??**
- Other legislature should be followed (**impact in PF, ESI, fees fixation committee regulations, etc**)

Charitable/religious trust - certain decisions

- Virtual class rooms imparting education is also charitable u/s. 2(15) - **if curriculam approved**
 - NIIT Foundation - 2020 (5) TMI 628 ITAT Del - (**to be tested as per SC ruling**)
- Catering service/hostel run by school is also part of imparting education- income from such activities exempt (**for 15% gross /net?**)
 - Wood stock school - 175 ITD 722 (DEL)
 - Shree Deshi Lohana - 2020 (7) TMI 42 ITAT AMHD
 - Harish Chand Ram Kali Charitable Trust - 2020 (5) TMI 555 ITAT Del
- Pharmacy store run by hospital is also part of medical service - income is exempt (**for 15% gross /net?**)
 - National Health & Education Society - 2020 (3) TMI 505 (Bom HC)



Charitable/religious trust - certain decisions

- Executing the job of cleaning the railway coaches by employing poor persons - not a charity
 - Mahatma Gandhi Charitable Society, 415 ITR 27 (Ker) (HC)
- Providing midday meals to poor people by collecting money from govt agencies - not a charity
 - M/S. Annadan Trust - 2018 (8) TMI 518 (Ker HC)
- Interest earned on corpus donation - when there is specific direction from the donors - is also corpus donation - exempt u/s. 11(1)(d)
 - M/S Mata Amrithanandamayi Math - 2017 (9) TMI 1232 Ker HC

Charitable/religious trust - certain decisions

- Rental income of trust - no std deduction of 30% allowable
 - Nandlal Tolani Charitable trust - 176 ITD 769 (Mum ITAT)
- When the application is more than income, 15% is not allowable
 - Shree Surat Jilla Leuva Patidar Samaj Trust - 176 ITD 69 (Surat) (Trib.)
- Reasonable rent paid to trustees - not bar to claim exemption
 - Bholaram Education Society - 260 Taxman 369 (Guj HC)

THANK YOU

FORTHCOMING CPE PROGRAMS - MAY 2023

S. No.	Date	Time	Program	Venue	CPE Credit Hours
01	11-05-2023, Thursday	06.00 PM - 08.00 PM	Subject : Concepts & Procedures - GST Refund Speaker : CA. S. Ramaprabha , Chartered Accountant, Coimbatore	ICAI Bhawan, R.S. Puram, Coimbatore	02 Hours
02	18-05-2023, Thursday	06.00 PM - 08.00 PM	Subject : Insights on Internal Audit Speaker : CA. Maalan Bharathi , Chartered Accountant, Coimbatore	ICAI Bhawan, R.S. Puram, Coimbatore	02 Hours
03	20-05-2023, Saturday	09.30 AM - 05.30 PM	One Day CPE Seminar Subject : Reporting and Audit for FY - 2022-2023 - Issues and Developments (Special focus on Smaller Companies) Speaker : CA. Himanshu Kishnadwala , Chartered Accountant, Mumbai Subject : Latest Amendments and Critical issues in GST Speaker : CA. G. Saravana Kumar , Chartered Accountant, Madurai Subject : Facing GST Audit, Inspection and Notices Speaker : CA. J. Balasubramanian , Chartered Accountant, Madurai	ICAI Bhawan, Thudiyalur, Coimbatore	06 Hours
04	25-05-2023, Thursday	06.00 PM - 08.00 PM	Subject : New ITR Forms Speaker : CA. M. S. Nagaraj , Chartered Accountant, Coimbatore	ICAI Bhawan, R.S. Puram, Coimbatore	02 Hours

Note: Annual Seminar Series Members NEED NOT pay any fee for all the above programs, Other Members, please pay the fee and register. Invitation with complete details about the programs will be circulated.

OBITUARY



CA. K. RAMASAMY

M. No. 4753

Past Chairman of Coimbatore Branch of SIRC of ICAI

Past Chairman of SIRC of ICAI

passed away on 3rd April 2023



CA. T.R. SUBBAIYAN

M. No. 12464

passed away on 30th April 2023

May their Souls Rest in Peace...

CONDOLENCE MEETING FOR CA K. RAMASAMY



SICASA ACTIVITIES

