

Strictly for the use of  
Departmental Officers

# Assessment of Charitable and Religious Trusts and Institutions



Income Tax Department  
Central Board of Direct Taxes



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**ASSESSMENT OF CHARITABLE  
AND  
RELIGIOUS TRUSTS  
AND  
INSTITUTIONS**



**INCOME TAX DEPARTMENT**

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New Delhi-110001

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# Assessment of Charitable/ Religious Trusts and Institutions

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Version 1.1. dated 30.01.2024

**Disclaimer:** This booklet should not be construed as an exhaustive statement of the law. In case of doubt, reference should always be made to the relevant provisions in the Acts and the Rules.

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## Foreword by the Chairman, CBDT

The Income Tax Department has undergone significant changes in recent times. One of the most significant steps taken by the Department is moving from the earlier assessment regime to the faceless assessment regime. There was a long-standing demand from the Faceless Assessing Officers to improve their capacity regarding the application of the provisions related to charitable and religious trusts and institutions. It is in the interest of all the stakeholders that the FAOs carrying out the assessment work comprehend the law with clarity so that they can frame assessments with sound reasoning. This will not only protect the interest of the revenue but also result in the avoidance of inconvenience to the genuine trusts and institutions and minimize the cost of litigation.

I compliment Exemptions Division to conceptualize and come out with an informative booklet that will help our FAOs to understand the latest position of law on different provisions related to charitable trusts and institutions. I feel that this will be quite helpful to the FAOs in making assessments with sound reasoning which can better test the appeal, if any. I wish all the best to the Assessing Officers and I am quite sure that they will make the best use of this endeavor.

**Nitin Gupta**  
Chairman, CBDT



## Foreword by the Member (IT&R)

Non Profit Organizations (NPOs) act as a significant partner of the Government in their endeavor to deliver public services. The Income-tax Act has historically recognized the contribution of the NPOs in the growth of India and, therefore, exempted their income subject to certain conditions. Income-tax Act, 1961 contains specific provisions related to NPOs working in the fields of education, medical relief, yoga, relief to the poor, preservation of environment and monuments, and other public utilities.

Provisions related to exemptions have always occupied a special significance. The last three Finance Acts have brought about fundamental changes in these provisions. Hon'ble Supreme Court has also delivered a few landmark decisions in the last few years. FATF is also undertaking a review of India at present and recommendation no. 8 of the FATF specifically focuses on NPOs. Comptroller & Auditor General of India in its recent report no. 12 of 2022 has made specific recommendations on the assessment of charitable and religious institutions.

Since the rollout of the faceless assessment scheme, the assessment of the NPOs has been carried out by the FAOs. Since the FAOs are carrying out a wide variety of assessments and the provisions related to exempt institutions are fundamentally different from the provisions related to the rest of the taxpayers, there was a long-felt need to educate and train the FAOs on the provisions related to NPOs. Though regular training programmes for the FAOs are being conducted by the NADT, RTIs, and Pr. CCIT (Exemptions), there was a need to document the provisions with the latest updates.

I am glad to see the booklet prepared by the Exemptions charge under the guidance of the Pr. CCIT(Exemptions). I hope this booklet will help the FAOs to be well-versed with the latest laws and legal pronouncements on the provisions related to NPOs. I compliment the Exemptions Division for putting in efforts to prepare a comprehensive guide for the Assessing Officers. I am really happy to see the points of verification on most of the topics which would be very helpful for the FAOs in understanding the issues and deciding the points of verification in cases assigned to them. I wish all the Assessing Officers all the best and hope that they will make the best use of this booklet.

Best wishes.

**Pravin Kumar**  
Member (IT&R), CDBT





## **Foreword by the Pr. CCIT (Exemptions)**

A Non Profit Organization (NPO) is one that is not driven by profit but by dedication to a charitable or religious purpose. NPOs work as an extended arm of the Government sharing the responsibility of the delivery of the public services. To promote and strengthen the NPOs, the Income-tax Act, 1961 provides exemption from income tax on their income subject to certain conditions.

The exemptions charge is a niche charge that is responsible for the supervision and monitoring of the NPOs. Provisions of the Act related to exemptions are quite different from the regular concepts of Income-tax like capital/revenue expenditure, application of income, deemed application, accumulation of income, etc. The interpretation of transactions appearing in the Income and Expenditure Statements of NPOs is counter-intuitive to the way financial transactions are interpreted in cases of business organizations. For example, in the case of a business entity, capital receipts get accounted directly to the Balance Sheet. In contrast, in the case of an NPO, it is to be reflected in the Income Statement with the qualification that it does not form part of the corpus. Similarly, on the expenditure side, all capital expenditures in the case of the business organization get reflected directly to the Balance Sheet with only depreciation being taken to the Profit & Loss Account whereas in the case of the NPOs, all the capital expenditures are part of the Expenditure Statement provided they are spent for the charitable purposes as per its objects.

It is difficult to expect an AO, looking after all classes of normal assesses, to suddenly change the way he examines financial statements while encountering the case of an NPO. It increases the chances of critical issues being missed while conducting assessments in the cases of NPOs by regular AOs in the current regime. Since the assessment of the NPOs is undertaken by the FAOs, this booklet is an endeavor to help the FAOs to understand the intricacies of the provisions related to charitable and religious trusts and institutions.

India's Mutual Evaluation by FATF is presently underway and India is committed to complying with the standards of the FATF. Income-tax Department is one of the key agencies to regulate and monitor charitable trusts and institutions. The Income Tax Department carries out scrutiny assessment of selected cases of charitable trusts and institutions based on a risk assessment framework. This scrutiny assessment comprises a significant part of the supervision and monitoring

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of the NPO sector. The income-tax department carries out the in-depth monitoring and supervision of the charitable trusts and institutions to ensure that only those trusts and institutions that carry out genuine activities get an exemption.

The C&AG in its Report No. 12 of 2022 on NPO sector has noted at many places in its report that the charitable and religious institutions are required to be effectively monitored. Due to the exemption from tax and allowability of deduction u/s 80G, many fake organizations also try to get the benefit in the guise of charitable institutions and therefore there is a need for more effective monitoring of this sector, as highlighted by the C&AG. Given these recent developments, it is all the more necessary that the FAOs become well versed with the provisions related to charitable trusts and institutions.

Recently, Hon'ble Supreme Court in CIT (Exemptions) Vs. Ahmedabad Development Authority & Ors. has rendered a landmark judgment regarding charitable trusts and institutions. There have been many more such decisions from the Apex Court in the last 2 years which are required to be uniformly implemented throughout India.

Further, successive Finance Acts, especially the Finance Acts 2021, 2022, and 2023 have brought about significant changes in the provisions related to charitable and religious institutions. The Assessing Officers is required to refer the matter to the jurisdictional commissioner, in cases of specified violation, who is required to decide whether to cancel the registration of the trust or institution.

This booklet is an endeavor to provide a quick reference to the AOs of the latest position of law and also a few of the most important judicial pronouncements in the recent past. While all situations may not have been captured, an effort has been made to provide guidelines to the FAO's to arrive at the best possible understanding of law, and minimizing any errors. Fair assessments are in the interest of all stakeholders.

I will compliment and appreciate the contribution of Vipul Agarwal, CIT(Hqrs.)(Exemptions) alongwith his team of officers in compiling this publication.

I hope that all officials will be able to make the best use of this booklet.

**Mohanish Verma**  
Pr. CCIT (E)

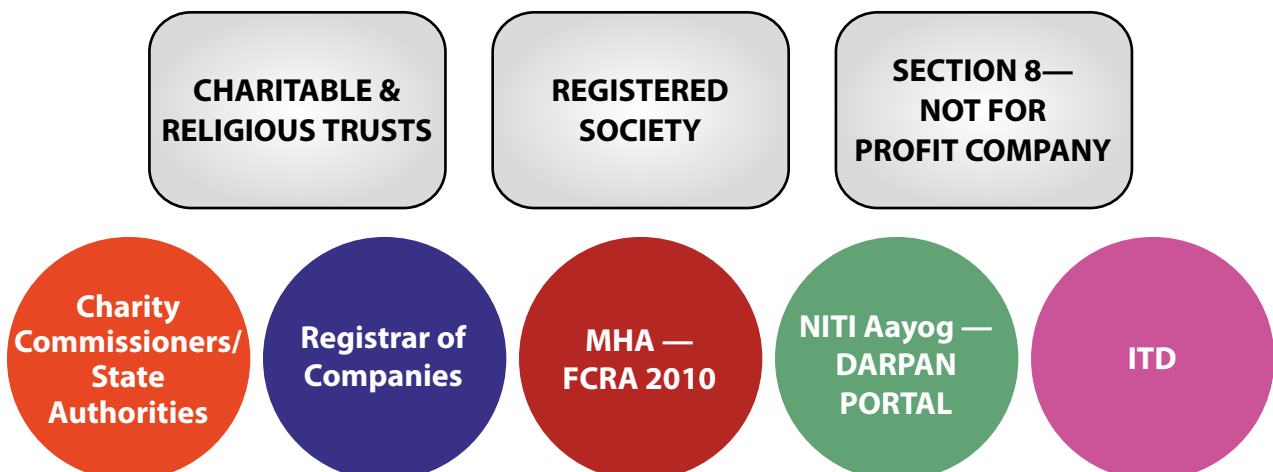
# CHAPTER-1

## THE ECOSYSTEM OF NPOs IN INDIA AND WORLDWIDE

### 1. INTRODUCTION

- 1.1 Non Profit Organizations (NPOs), whether public trusts, societies, or other non-profit entities (including non-profit companies), perform a vital role in supplementing governmental efforts of promoting economic development and social welfare. There is a need for such organizations, not only because the resources at the command of the government are insufficient relative to need, but also because of their outreach and the wealth of local knowledge they possess, all of which can fruitfully be utilized for the benefit of society. NPOs exist in all countries, whether developed or developing. Tax administrations the world over recognize their voluntary efforts and provide incentives to genuine charitable organizations. Most often, this is done by either partially or fully exempting their incomes from tax, and also by providing tax incentives to donors to encourage them to contribute resources to such organizations. The Indian Income Tax Act, 1961 (the Act) also incorporates several provisions to extend tax breaks and incentives to such organizations and their donors.
- 1.2 The NPOs in India are regulated by different agencies and the regulatory framework may be understood with the help of the following diagram:

#### AUTHORITIES ENGAGED IN INCOPORATION/REGISTRATION/REGULATION OF NPOs IN INDIA



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- 1.3 Broadly, the NPOs have three different types of constitution:
    - a) Trusts registered under the Indian Trust Act, 1882/ various state trust Acts, etc.
    - b) Societies registered under the Society Registration Act, 1860/ various state registration acts, etc.
    - c) Section 8 companies registered under the Companies Act, 2013.
  - 1.4 While the Ministry of Corporate Affairs regulates section 8 companies, the societies and trusts are registered with the state registrars.
  - 1.5 Foreign Contributions Regulation Act, 2010 (FCRA) administered by the Ministry of Home Affairs (MHA) regulates the foreign contributions received by charitable entities for social, religious, or philanthropic purposes, and maintains data regarding the same.
  - 1.6 DARPAN Portal administered by the NITI Aayog administers and regulates the disbursement of government grants to the NPO sector and registration on the portal is a mandatory condition for eligibility to avail government grants.
  - 1.7 There are charity commissioners in a few states and the charitable or religious institutions must be registered with them to carry out charitable or religious activities.

## **2. AVAILABILITY OF INFORMATION WITH THE REGULATORS**

### **2.1 Availability of Information with Ministry of Corporate Affairs**

Registrar of Companies (RoC) under the Ministry of Corporate Affairs maintains registration /incorporation details and also annual filing by the Non-Profit companies. Specifically, the following details are available:

#### **A. One-Time Compliances for Section 8 Company**

- a) Receipt of share application money
- b) Allotment of shares.
- c) Transfer of shares.
- d) Appointment/Resignation of Directors.
- e) Appointment /Resignation of Managing Director/Whole Time Director.
- f) Executing agreements with related parties.
- g) Any change in the Bank signatories.
- h) Any change in the statutory auditor.

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## **B. Annual Compliance**

- a) **Form AOC-4** (within 30 days of AGM) Annual Financial Statement & CSR
- b) **MGT-15** (within 30 days of AGM) (Applicable for public companies only)  
**Filing Report on AGM**

Various information is to be displayed in the report which consists of the day, date, venue, and time of the AGM, components of the appointment of the chairman, information about the attendees of the meeting, confirmation of the quorum, business transacted at the meeting, and the decisions made thereof, details of any adjournment/postponement of the meeting, a fair summary of the proceedings of the meeting, etc.

- c) **Form MGT-7** (within 60 days of AGM)
  - I. The registered office, principal business activities, particulars of its holding, subsidiary, and associate companies;
  - II. The shares, debentures, other securities, and shareholding pattern of the company;
  - III. Indebtedness of the company;
  - IV. The members and debenture-holders along with alterations connected to them since the end of the previous financial year;
  - V. The promoters, directors, and key managerial personnel along with alterations connected to them since the close of the previous financial year;
  - VI. Meetings of members or a class thereof, Board and its various committees along with attendance details;
  - VII. Remuneration of directors and key managerial personnel;
  - VIII. Penalty or punishment imposed on the company, its directors or officers and details of compounding of offenses and appeals made against such penalty or punishment;
  - IX. The matters relating to certification of compliances and disclosures as may be prescribed;
  - X. Its shareholding pattern; and
  - XI. Such other matters as required in the form.

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## 2.2 Availability of Information with State Governments/Charity Commissioners

There is a great deal of divergence in the procedure as well as information requirement between various state governments. Predominantly the data available with the state governments is in the manual mode and offline. The state-wise details and availability of data are enclosed as Annexure to this report (**Annexure A**).

## 2.3 Availability of Information with FCRA, MHA

(i) The annual return form under FCRA, Form FC-4 contains data about the registered NPOs. The details captured under Form FC-4 are as under:

1. (a) Name and address of person/association  
(b) FCRA registration/ prior permission number and date
2. Details of receipt of foreign contribution:
  - (a) Foreign Contribution received in cash/ kind (value)
  - (b) Brought forward foreign contribution at the beginning of the year
  - (c) Income during the year:
    - (i) Interest
    - (ii) Other receipts from projects/activities
3. Donor wise details of foreign contributions received
4. Cumulative purpose-wise (social, cultural, educational, economic, religious, amount of all foreign contribution received)
5. Details of the utilization of foreign contribution
6. Administrative expenses as provided in Rule 5 of the Foreign Contribution (Regulation) Rules, 2011
7. Details of purchase of fresh assets
8. Details of unutilized foreign contribution

(ii) The other information of relevance within the domain of FCRA authorities are as under:

1. FCRA Registration Forms containing basic details
2. Darpan ID

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3. Data about cancellation/any other punitive action on the NPO pertaining to FCRA
  4. Designated FCRA bank accounts

#### **2.4 Availability of Information with the DARPAN portal**

- a) NPOs enrolled with Unique Darpan IDs & their basic registration details
- b) NPO contact person mobile, e-mail & PAN of NPO, FCRA registration of NPO, if available
- c) Aadhar details of the key Member (President/ & Gen Secretary) of the NPO
- d) Details of government grants received by participating NPOs
- e) Utilization & monitoring of grants spent (work in progress)
- f) Details of NPOs blacklisted by DARPAN

#### **2.5 Availability of Information with Banks**

- a) Data on financial transactions, credit & debits, cash deposits, etc
- b) KYC of key functionaries & their mobile numbers
- c) Outward foreign remittances
- d) Receipts in foreign currency

#### **2.6 Availability of Information with the Income Tax Department**

ITD has the most comprehensive database on the NPOs. The details are briefly mentioned as under:

- a) PAN database, capturing basic details of the NPO
- b) Application for Registration in Form 10A/Form 10AB, as the case may be
- c) URN (Unique Registration Number) of the NPOs approved/registered under section 10(23C)/12AB, and the order of PCIT/CIT in Form 10AC/10AD registering the NPO
- d) Database of applications rejected by PCIT/CIT in Form 10AC/10AD
- e) Mandatory Annual Audit Report filed by the NPO in Form 10B/10BB
- f) Annual Accumulation Report filed by the NPO in Form 9A/Form 10
- g) Annual Statement of Donation in Form 10BD filed by donee NPO approved under section 80G
- h) Annual Income Tax Return in ITR 7
- i) Quarterly TDS Statements filed by the NPOs

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- j) Form 15CA/15CB filed by the NPOs for outward foreign remittance
  - k) Form 15CC received from banks & other authorized institutions for outward foreign remittances
  - l) Suspicious Transactions Reports (STRs) received from the Financial Intelligence Unit (FIU)
  - m) Information shared by other Law Enforcement Agencies (LEAs)

### **3. PREVENTION OF MONEY-LAUNDERING (MAINTENANCE OF RECORDS) AMENDMENT RULES, 2023 NOTIFICATION DATED 7th MARCH 2023**

- 3.1. Recently, Prevention of Money-laundering (Maintenance of Records) Amendment Rules have been amended to provide the following:-

*“(9A) Every Banking Company or Financial Institution or intermediary, as the case may be, shall register the details of a client, in case of the client being a non-profit organization, on the DARPAN Portal of NITI Aayog, if not already registered, and maintain such registration records for a period of five years after the business relationship between a client and a reporting entity has ended or the account has been closed, whichever is later”.*

- 3.2. The definition of a Non-Profit organization has also been aligned with the definition under the Act

*“(cf) “Non-profit organization” means any entity or organization, constituted for religious or charitable purposes referred to in clause (15) of section 2 of the Income-tax Act, 1961 (43 of 1961), that is registered as a trust or a society under the Societies Registration Act, 1860 (21 of 1860) or any similar State legislation or a Company registered under the section 8 of the Companies Act, 2013 (18 of 2013);”*

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### **Verification from Darpan Portal**

The amendment has a huge impact as now the information related to all the bank accounts of the NPOs shall be available on the DARPAN portal and such information is freely accessible. Therefore, the Assessing Officers may verify whether the NPO being assessed by them has any bank account that is not disclosed in the ITR or receipts whereof have not been accounted for in the books of account.

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## 4. THE FATF RECOMMENDATIONS ON NPOs

- 4.1 The Financial Action Task Force (FATF) is the global money laundering and terror financing watchdog. It sets international standards that aim to prevent these illegal activities and the harm they cause to society. The objectives of FATF are to set standards and promote effective implementation of legal, regulatory, and operational measures for combating money laundering, terror financing, and other related threats to ensure the integrity of the international financial system. FATF is a policy-making body that works to generate the necessary political will to bring about national legislative and regulatory reforms in these areas. FATF monitors progress in implementing its Recommendations through "peer reviews" ("mutual evaluations") of member countries.
- 4.2 The risk of terror abuse in non-profit organizations (NPOs) is incorporated in the FATF Recommendation 8 which requires that countries to review their laws and regulations to ensure that NPOs cannot be abused for the terror financing. The FATF Recommendation 8 focuses on the non-profit organization (NPOs) sector and the potential use of the NPOs as vehicles for Money Laundering (ML) and Terror Financing (TF).

*"Countries should review the adequacy of laws and regulations that relate to Non-Profit Organisations which the country has identified as being vulnerable to terrorist financing abuse. Countries should apply focused and proportionate measures, in line with the risk-based approach, to such non-profit organizations to protect them from terror financing abuse, including:*

- a) By terrorist organizations posing as legitimate entities;*
- b) By exploiting legitimate entities as conduits for terror financing, including for the purpose of escaping asset-freezing measures, and*
- c) By concealing or obscuring the clandestine diversion of funds intended for legitimate purposes to terrorist organizations".*

- 4.3 The FATF has established best practices, aimed at preventing the misuse of NPOs for TF while, at the same time, respecting legitimate actions of the NPOs. In Para 12 of the Best Practices Document on Combating the Abuse of NPOs, it is mentioned as under:

*"12. While it is possible that NPOs, like their for-profit counterparts, may face numerous other risks relating to money laundering, fraud, corruption, and tax evasion. Recommendation 8 is only intended to address the particular vulnerability of NPOs to terrorist abuse. Yet risk mitigation*

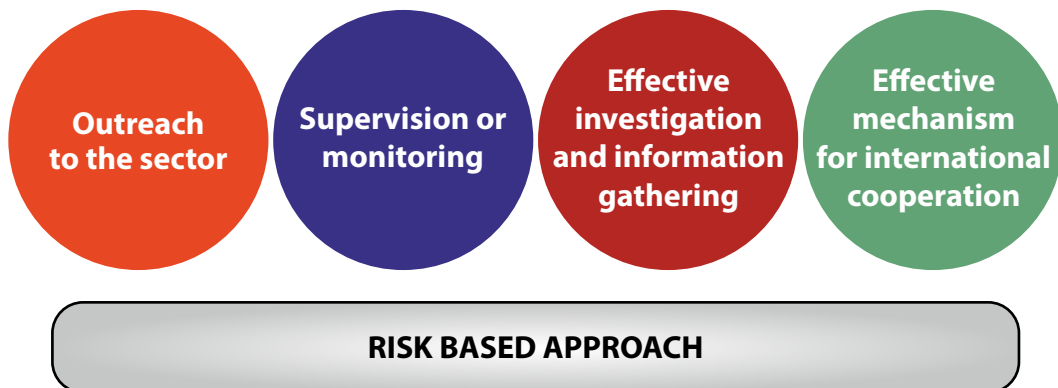
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*measures to protect against other illicit financial threats, including money laundering, can be helpful in mitigating terror financing risks”.*

4.4 Recommendation 8 encourages countries to identify the risk of misuse of NPOs for TF purposes. The Best Practices Paper does not prescribe a single methodology for assessing the risks of misuse of NPOs. It is recommended that countries should undertake a domestic review of their NPO sector or have the capacity to obtain timely information on its activities, size or other relevant features. Countries should also periodically reassess the sector by reviewing new information on the sector’s potential vulnerabilities to terrorist activities. An effective approach in identifying, preventing, and combating the misuse of NPO sector may involve all four of the following elements:

- a) Outreach to the sector
- b) Supervision or monitoring
- c) Effective investigation and information gathering
- d) Effective mechanism for international cooperation

**FATF Report: Best Practices Combating the Abuse of Non-Profit Organizations (R. 8)**



4.5 The relevant issues under each of these four elements are mentioned hereunder:

**a. Outreach to the NPO sector concerning TF issues**

- (i) Countries should have clear policies to promote transparency, integrity and public confidence in the administration and management of all NPOs.
- (ii) Countries should encourage or undertake outreach programmes to raise awareness in the NPO sector about the vulnerabilities of NPOs to terrorist abuse and TF risks, and the measures that NPOs can take to protect themselves against such abuse.

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- (iii) Countries should work with the NPO sector to develop and refine best practices to address TF risks and vulnerabilities and thus protect the sector from terrorist abuse.
  - (iv) Countries should encourage NPOs to conduct transactions via regulated financial channels, wherever feasible, keeping in mind the varying capacities of financial sectors in different countries and in different areas of urgent charitable and humanitarian concerns.

**b. Supervision or monitoring of the NPO sector**

Countries should take steps to promote effective supervision or monitoring of their NPO sector. In practice, countries should be able to demonstrate that the following standards apply to NPOs which account for a significant portion of the financial resources under control of the sector and a substantial share of the sector's international activities:

- (i) NPOs should maintain information on: (1) the purpose and objectives of their stated activities; and (2) the identity of the persons who own, control, or direct their activities, including senior officers, board members, and trustees. This information should be publicly available either directly from the NPO or through appropriate authorities.
- (ii) NPOs should issue annual financial statements that provide detailed breakdowns of incomes and expenditures.
- (iii) NPOs should be licensed or registered. This information should be available to competent authorities.
- (iv) NPOs should have appropriate control in place to ensure that all funds are fully accounted for, and are spent in a manner that is consistent with the purpose and objectives of the NPO's stated activities.
- (v) NPOs should follow a "know your beneficiaries and associate NPOs" rule, which means that the NPO should make the best efforts to confirm the identity, credentials, and good standing of their beneficiaries and associate NPOs. NPOs should also undertake best efforts to document the identity of their significant donors and to respect donor confidentiality.
- (vi) NPOs should maintain, for at least five years, records of domestic and international transactions that are sufficiently detailed to verify that funds have been spent in a

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manner consistent with the purpose and objectives of the organization, and should make these available to competent authorities upon appropriate authority. This also applies to information mentioned in paragraphs (i) and (ii) above.

- (vii) Appropriate authorities should monitor the compliance of NPOs with the requirements of this Recommendation. Appropriate authorities should be able to apply effective, proportionate, and dissuasive sanctions for violations by NPOs or persons acting on behalf of these NPOs.

**c. Effective information gathering and investigation**

- (i) Countries should ensure effective cooperation, coordination, and information-sharing to the extent possible among all levels of appropriate authorities or organizations that hold relevant information on NPOs.
- (ii) Countries should have investigative expertise and capability to examine those NPOs suspected of either being exploited by or actively supporting, terrorist activity or terrorist organizations.
- (iii) Countries should ensure that full access to information on the administration and management of a particular NPO (including financial and programmatic information) may be obtained during the course of an investigation.
- (iv) Countries should establish appropriate mechanisms to ensure that when there is suspicion or reasonable grounds to suspect that a particular NPO:
- (a) is a front for fund raising by a terrorist organisation;
  - (b) is being exploited as a conduit for TF, including for the purpose of escaping asset-freezing measures; or
  - (c) is concealing or obscuring the clandestine diversion of funds intended for legitimate purposes, but redirected for the benefit of terrorists or terrorist organizations, this information is promptly shared with relevant competent authorities, in order to take preventive or investigative action.

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**d. Effective mechanism for international cooperation**

In the Best Practices Guidance, it has been stated that effective capacity to respond to international requests for information about an NPO of concern, consistent with recommendations on international cooperation, countries should identify appropriate points of contact and procedures to respond to international requests for information regarding NPOs suspected of TF or other forms of terrorist support.

# CHAPTER-2

## ADMINISTRATIVE STRUCTURE

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### 5. ADMINISTRATIVE STRUCTURE AND AUTHORITIES

- 5.1 The provisions relating to the trusts or institutions and entities claiming exemption under the direct tax laws are administered mainly by Pr. Chief Commissioner of Income Tax (Exemptions) and the Commissioner of Income Tax (Exemptions) in 14 charges, namely, Ahmedabad, Bengaluru, Bhopal, Chandigarh, Chennai, Delhi, Hyderabad, Jaipur, Kochi, Kolkata, Lucknow, Mumbai, Patna and Pune.
- 5.2 The hierarchy of central government authorities dealing with charitable and religious trusts and institutions under the I-T Act is briefly as follows:
- (i) The Central Government;
  - (ii) The Central Board of Direct Taxes;
  - (iii) The Pr. Chief Commissioner of Income Tax (Exemptions);
  - (iv) The Commissioner of Income Tax (Exemptions);
  - (v) The Additional/Joint Commissioner of Income Tax (Exemptions);
  - (vi) The Deputy/Assistant Commissioner of Income Tax (Exemptions);
  - (vii) The Income Tax Officer (Exemptions); and
  - (viii) The Inspector of Income Tax.

# CHAPTER-3

## REGISTRATION RELATED PROVISIONS

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### 6. REGISTRATION OF CHARITABLE/RELIGIOUS TRUST OR INSTITUTION

- 6.1 One of the key conditions for charitable/religious trusts or institutions seeking to claim exemption under Sections 11 and 12 of the Act is that such trust or institution should be registered under the Act. The first and second proviso to clause (23C) of section 10 as well as section 12A provide that the provisions of sub-clause (iv), (v), (vi), and (via) of clause (23C) of section 10 and section 11 and section 12, which provide for exemption of income to such trusts and institutions, will not be applicable unless such trust or institution has made an application in the prescribed form for registration and it has been registered.
- 6.2 With the advent of technology, to improve the registration process, and keeping in mind the practical difficulties in obtaining registration, the Finance Act, 2020, *inter alia*, amended several provisions relating to the registration of charitable/religious trusts or institutions referred to in clause (23C) of section 10, 12A, 35 and 80G of the Act to provide:
- a) Approval shall be granted for a period not exceeding five years at a time.
  - b) Re-registration of the existing charitable institutions.
  - c) Provisional registration of the first-time applicants for a period of 3 years or commencement of activities.
  - d) Statement of donations to be filed by the entities registered u/s 80G/35.
  - e) Issue of certificate by the donee to the donor for such donation.
- 6.3 The above amendments were to come into effect from 1st June 2020. However, given the crisis presented by the outbreak of the COVID-19 pandemic, vide Press Release dated 9th May 2020, the Ministry of Finance deferred the applicability of the new process of registration to 1st October 2020. Subsequently, given the persisting pandemic, the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 further deferred the applicability to 1st April 2021.

6.4 Given the above, a notification was issued to provide a new procedure for the registration/approval/notification of the exempt entities covered under sections 10(23C), 12A, 35, and 80G of the Act by amending the Income-tax Rules, 1962 (the Rules). Rule 2C, 5C, 5F, 11AA and 17A have been amended and new rules 5CA and 18AB have been inserted providing for:

- a) Online process for filing of the application
- b) Instant registration in case of provisional registration and re-registration
- c) Instant generation of the Unique Registration Number (URN)
- d) Cancellation of the registration, in case the same is procured by filing incomplete or wrong form or documents
- e) Documents to be submitted along with the form
- f) On-line processing of the applications and passing of the registration orders
- g) Process for the online filing of the donation statements by the donee starting from the financial year 2021-22.
- h) Process for furnishing the certificate of donation by the donee to the donor as per the procedure facilitated by the DG (Systems).

6.5 Further, old forms 10A, 10G, 56, 3CF-I, 3CF-II, and 3CF-III have been replaced with three new forms 10A, 10AB, and 3CF to reduce the compliance burden and improve the quality of the database.

**First proviso to clause (23C) to section 10 and First proviso to sub-section (5) of section 80G**

<b>Type of approval</b>	Re-approval of the old trusts: 10A [clause (i)]	Every 5 years approval: 10AB [clause (ii)]	Provisional to regular approval: 10AB [clause (iii)]	Provisional approval: 10A [sub-clause (A) of clause (iv)]	Common approval: 10A [sub-clause (B) of clause (iv)]
<b>Nature of enquiries and time line for approval/ registration</b>	No enquiries: Form 10AC by CPC within 3 month	Jurisdictional CIT after enquiries within 6 months in Form 10AD	Jurisdictional CIT after enquiries within 6 months in Form 10AD	No enquiries: Form 10AC by CPC within 1 month	Jurisdictional CIT after enquiries within 6 months in Form 10AD



### Clause (ac) of sub-section (1) of section 12A

<b>Type of approval</b>	Re-registration of the old trusts: 10A [sub-clause (i)]	Every 5 years registration: 10AB [sub-clause (ii)]	Provisional to regular registration: 10AB [sub-clause (iii)]	Change of regime from first to second: 10AB [sub-clause (iv)]	Modification of objects: 10AB [sub-clause (v)]	Provisional registration: 10A [Item (A) of sub-clause (vi)]	Common registration: 10A [Item (B) of sub-clause (vi)]
<b>Nature of enquiries and time line for approval/ registration</b>	No enquiries: Form 10AC by CPC within 3 month	Jurisdictional CIT after enquiries within 6 months in Form 10AD	Jurisdictional CIT after enquiries within 6 months in Form 10AD	Jurisdictional CIT after enquiries within 6 months in Form 10AD	Jurisdictional CIT after enquiries within 6 months in Form 10AD	No enquiries: Form 10AC by CPC within 1 month	Jurisdictional CIT after enquiries within 6 months in Form 10AD

6.6 While granting the registration, the PCIT/CIT satisfies himself with the following:-

- a) The objects of the trust or institution, and
- b) The genuineness of its activities.

6.7 The following points are ordinarily verified by the PCIT/CIT at the time of granting registration:-

- a) There should be a legally existent entity which can be registered;
- b) It should have a written instrument of creation or written document evidencing its creation;
- c) All its objects should be charitable or religious;
- d) Its income and assets should be applied exclusively to the objects mentioned in the object clauses, and the rules and by-laws;
- e) No part of its income should be distributable or distributed, directly or indirectly, to its members, directors or founders, related persons or relatives, etc. claiming through them;

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- f) In case of dissolution, its net assets after meeting all its liabilities, should not be revertible or reverted to its founder, members, directors donors etc., but used for the objects by transfer to another trust/institution having objects of charitable/religious purpose.
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**Verification of registration:**

- a) The AO may examine whether a valid approval under section 12AB or second proviso to clause (23C) of section 10 is available with the trust or institution.
- b) The AO may examine whether the approval is valid as on date. There is a possibility that the approval has been withdrawn by the competent authority at a later date after the grant of the approval. The updated list of such registrations/withdrawals is available on the ITBA platform.
- c) The AO may examine whether the registration/ approval is valid for the assessment year under consideration. The registration certificate issued by the competent authority is valid w.e.f. assessment year mentioned in the certificate.
- d) The AO may examine whether any modification has taken place in the objects of the trust or institutions registered with the Income-tax Department.
- e) In case any modification has taken place, whether application as per the provision of section 12A(1)(ac) has been filed by the assessee.
- f) The AO may examine whether the trust or institution has received registration u/s 12AB for the modified objects.
- g) The AO may keep in mind that provisional registration/re-registration is granted by the CPC without detailed verification. CPC issues the certificates of registration in form 10AC while the CIT (Exemptions) issues the registration certificates in form 10AD. Therefore, if the trust or institution has only form 10AC till the date of scrutiny and no form 10AD has been issued, the AO needs to verify further whether the activities carried out by the trust or institution are within the scope of clause (15) of section 2.
- h) There is a possibility that some ingenuine trust or institution has got the provisional registration/re-registration from CPC-based on false documents or by furnishing inaccurate particulars. The AO may examine to ensure that only genuine trusts or institutions get the benefit of exemption.
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## 7. COMMENCEMENT OF ACTIVITIES IN CASE OF PROVISIONAL REGISTRATION

- 7.1 The trust or institution which gets provisional registration from CPC, needs to apply within six months of the commencement of the activities or at least six months prior to the expiry of period of provisional registration, whichever is earlier. The CIT(E) grants fresh approval/registration after verification. If the trust or institution does not apply within the time limits for the regular registration, provision of section 115TD will be attracted and the trust or institution will have to pay tax on its accreted income. If the CIT(E) denies the regular registration and cancels the provisional registration, then tax has to be paid on the accreted income as per the provisions of section 115TD.
- 7.2 Trust or institutions registered under the old regime were required to furnish form 10AB by 30.09.2023 and the trust or institutions having provisional registration were also required to apply for regular registration by 30.09.2023 or within 6 months of commencement of activities, whichever is later. Where such application has not been received by 30.09.2023 or within 6 months from the commencement of activities and the trust or institution has claimed exemption for the previous year under scrutiny, it needs to be examined whether the trust or institution has a valid registration for the year.
- 7.3 The Finance Act, 2023, with effect from AY 2023-24, has amended the provisions of sub-section (3) of section 115TD by providing that if a trust or institution fails to make an application for registration or re-registration within timelines, it shall pay taxes on its accreted income as per the provisions of section 115TD. Therefore, the following trusts or institutions-
- a) which were registered/approved before 01.04.2021; or
  - b) which got provisional registration or approval and commenced their activities by 31.03.2023

but have not applied for registration in Form 10AB by 30.09.2023, will be subject to the provisions of section 115TD, and fair market value of their assets as on 30.09.2023 shall be taxable as per the provisions of section 115TD.

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### **Verification of commencement of activities:**

- a) The AO may verify whether regular registration has been granted by the CIT(E) and if not, whether the provisions of section 115TD are applicable.
  - b) The AO may also verify the date of commencement of activities. If the activities of the trust or institution have commenced but it has not applied for regular registration within 6 months of commencement of activities in form 10AB (or up to 30.09.23 as per Circular 06/23), provisions of section 115TD shall be attracted.
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## 8. APPROVAL UNDER SECTION 80G

- 8.1 Apart from the exemption of income of the trust or institution itself under clause (23C) of section 10 or section 11 or 12 as described in the earlier paragraphs, a donor to such entities is also entitled to benefit of deduction from his own income on account of the donations made by him. The extent of deduction allowable is prescribed in Section 80G.
- 8.2 While contributions to certain funds/entities such as the Prime Minister's National Relief Fund, contributions to a university or educational institution of national eminence, and to specified funds set up by state governments for disaster relief, etc. are entitled to 100 percent deduction, others are eligible for an exemption to the extent of 50 percent of the amount donated.
- 8.3 It may be noted here that donations exceeding Rs.2,000/- must be made other than in cash to be eligible for deduction. Section 80G(5) lays down the preconditions that must be satisfied cumulatively before a trust or institution can qualify for approval under Section 80G. These conditions are summarized as under:-
- a) The income of the trust or institution should not be includible in its total income by provisions contained in clause (23AA) or clause (23C) of section 10 or section 11 or 12
  - b) As per the instrument under which the trust or institution was created and as per rules governing it, no part of its income or assets is transferable, or to be applied for any purpose other than charitable purposes. The charitable purpose here would not include religious purpose in view of Explanation 3 to Section 80G. However, sub-section (5B) of Section 80G permits the application of up to 5 per cent of the income for the year towards religious purposes;
  - c) The trust or institution is not expressed to be for the benefit of any particular religious community or caste;
  - d) It maintains regular books of account regarding its receipts and expenditures;
  - e) The trust or institution is either constituted as a public charitable trust, a society registered under the Societies Registration Act (or its equivalent legislation), a company registered under Section 8 of the Companies Act, or a statutory university or recognized educational institution, or an institution financed by the central or state government;
  - f) The trust or institution is approved by the PCIT/CIT in accordance with the rules made on this behalf.
- 8.4 The requirement for approval by the PCIT/CIT thus stems from the condition mentioned in (f) above.

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## **9. RELIGIOUS ACTIVITY BY TRUST OR INSTITUTION APPROVED U/S 80G**

9.1 As per the provisions of sub-section (5) of section 80G, the benefits u/s 80G are available to the trust or institutions that are not religious. However, as per the provisions of sub-section (5B) of the section, any trust or institution that incurs expenditure, during any previous year, which is of a religious nature for an amount not exceeding five percent of its total income in that previous year shall be deemed to be an institution or fund to which the provisions of this section apply.

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### **Verification of registration u/s 80G:**

- a) The AO shall verify whether the approval under section 80G needs to be withdrawn if as per the audit report expenditure on religious activity exceeds 5 %.
  - b) If expenditure on religious activities exceeds 5%, an intimation in this regard may be sent to the PCIT/CIT to cancel the approval u/s 80G.
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## **10. TRUST OR INSTITUTION UNDER SECTION 80G (2)(b)**

10.1 As per the provisions of explanation 3A and 3B to sub-section (1) of section 11 and explanation 1A and 1B to the 3rd proviso to clause (23C) of section 10, in case of any temple, mosque, gurdwara, church or other place notified under clause (b) of sub-section (2) of section 80G, any sum received by such trust or institution as a voluntary contribution for the purpose of renovation or repair of such temple, mosque, gurdwara, church or other place, may, at its option, be treated by such trust or institution as forming part of the corpus of the trust or the institution, subject to the condition that the trust or the institution-

- (a) applies such corpus only for the purpose for which the voluntary contribution was made;
- (b) does not apply such corpus for making contribution or donation to any person;
- (c) maintains such corpus as separately identifiable; and
- (d) invests or deposits such corpus in the forms and modes specified under sub-section (5) of section 11.

10.2 If the trust or institution violated any of these conditions then such sum shall be deemed to be income of the trust or institution.

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**Verification of section 80G(2)(b):**

- a) The AO may examine whether a notification has been issued by the Board and such notification is valid for the assessment year under consideration.
  - b) It is also required to be examined whether the notification was for specific repair and renovation and a specific period and whether the same is valid for the AY under scrutiny.
  - c) The details of such corpus are furnished separately in Schedule J of the ITR-7. The AO may verify whether all the conditions referred to above have been met by the trust or institution and if any of these conditions has been violated, it shall be deemed to be the income of the trust or institution.
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# CHAPTER-4

## PROVISIONS RELATED TO TAXABILITY OF INCOME

### 11. CONDITIONS FOR CLAIMING EXEMPTION

11.1 Any trust or institution carrying out activities for charitable/religious purposes may claim exemption under sections 11 and 12 or under clause (23C) of section 10 of the Act. The trust or institution, to claim an exemption under these sections need to satisfy the following conditions:

- a) It should be a public trust or society or a company registered under section 8 of the Companies Act, 2013 or any other entity specifically provided in the relevant provisions.
- b) It should be formed with any one or more charitable or religious purposes.
- c) It should be registered with the Income Tax Department. The authority competent to grant registration u/s 12AB (for claiming exemption u/s 11 and 12) and the second proviso to clause (23C) of section 10 is the PCIT/CIT or CPC.
- d) It should fulfill the conditions laid down under clause (23C) of section 10 (referred to as first regime) or sections 11, 12, and 13 (referred to as second regime), as the case may be.



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## General Points of Verification-

General points of verification for the assessment of charitable or religious institutions are summarised here & have been explained in detail in the subsequent paragraphs:

- a) Whether the trust or institution is registered/approved as per the provisions of section 10(23C)/12AB. (Para 6)
- b) Whether the registration is valid for the AY under consideration. (Para 6)
- c) Where the trust or institution gets provisional registration, it needs to apply for regular registration within 6 months of the commencement of activities or at least six months prior to expiry of period of provisional registration, whichever is earlier. Such provisional registration is valid for a maximum period of 3 years. (Para 7)
- d) The AO needs to verify whether the registration has been canceled by the PCIT/CIT. (Para 34.4)
- e) Where the trust or institution has received donations, whether all the donations are voluntary. (Para 18)
- f) Whether the donations in kind have been duly accounted for. (Para 18)
- g) Whether the anonymous donations have been offered for taxation as per the provisions of section 115BBC. (Para 20)
- h) Whether the trust or institution is carrying out commercial activities and if so, whether the commercial activities are incidental to the objects of the trust and separate accounts are maintained. In case of any of these two violations, viz. carrying out non-incidental activities or carrying out incidental activities without separate books of account, it will be a specified violation, and a reference is required to be made to the PCIT/CIT for the cancellation of registration. (Para 14)
- i) In case of GPU, whether the incidental commercial activities are within the range of 20% failing which the exemption is denied and the net income computed as per the provisions of 22nd and 23rd proviso to clause (23C) of section 10 or sub-section (10) and (11) of section 13 of the Act becomes taxable with effect from AY 2023-24 (upto AY 2022-23, exemption will be denied in such cases as per the provisions of 18th proviso to clause (23C) of section 10 or sub-section (8) of section 13 of the Act). (Para 14.3)
- j) As per the decision of the Hon'ble Supreme Court in AUDA, any activity is a commercial activity, if the markup on the activity is above the nominal markup. (Para 14.2)



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- k) Hon'ble Supreme Court has also ruled in the AUDA case that the facts of each year are to be examined separately and therefore even if for a particular year, the courts have decided that the activities are not commercial, the facts of each of the year are to be examined separately. (Para 14.2)
  - l) Whether 85% of the income has been applied during the year for charitable or religious purposes in India as per the objects of the trust or institution. (Para 23)
  - m) Corpus donations given by the donors with a specific instruction that such donations shall form part of the corpus, need not be applied. If any application is made by the trust or institution out of corpus, such application should not be considered for the computation of the mandatory 85% application out of current years' income (other than corpus). (Para 21)
  - n) Interest and other regular income on corpus is not corpus and needs to be applied. (Para 21)
  - o) Sometimes, an income received by the trust or institution is directly taken to the balance sheet and the trust or institution never applies such income. The AO needs to examine whether such funds are in the nature of the corpus. The same is required to be applied if found not to be in the nature of corpus. (Para 21)
  - p) The application of income needs to satisfy the following conditions (similar provisions in first regime are elaborated in subsequent paragraphs) (Para 23)
    - i. Application should be in India [section 11(1)(a) and 11(1)(b)]
    - ii. Donation towards corpus not allowed [Explanation 2 to sub-section (1) of section 11] Finance Act, 2017 (wef AY 18-19)
    - iii. Donation to other trusts or institutions: only 85% allowed [Clause (iii) of Explanation 4 to sub-section (1) of section 11] Finance Act, 2023 (wef AY 24-25) **(up to AY 2023-24, 100 % application shall be allowed).**
    - iv. Section 40(a)(ia) (No TDS-30% application is disallowed) [Explanation 3 to sub-section (1) of section 11] Finance Act, 2018 (wef AY 19-20)
    - v. Section 40A(3)/(3A): application in cash is disallowed >Rs.10,000 [Explanation 3 to sub-section (1) of section 11] Finance Act, 2018 (wef AY 19-20)
    - vi. No carry forward is allowed [Explanation 5 to sub-section (1) of section 11] Finance Act, 2021 (wef AY 22-23)
    - vii. Actual payment basis (Explanation to section 11) Finance Act, 2022 (wef AY 22-23)
    - viii. No benefit to specified persons [section 13(1)( c )]

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- q) Donation to any trust or institution which is not registered under clause (23C) of section 10 or section 12AB, or to a trust or institution which has different objectives shall not qualify as application. (Para 23)
  - r) No part of the income of the trust or institution shall be applied beyond the objects of the trust or institution. That is a specified violation and reference is required to be made to the PCIT/CIT. (Para 23)
  - s) No part of the income should be applied outside India except with the specific approval of the CBDT [clause (c) of sub-section 1 of section 11]. (Para 23)
  - t) If the trust or institution can not apply 85% of its income, it may accumulate for 1 year by filing form 9A or for 5 years by filing form 10. Form 9A does not apply to the first regime. (Para 27)
  - u) Such accumulated income (Form 10) is required to be applied in 5 years and if not applied within 5 years, the same is taxable as per the provisions of section 115BBI. (Para 34.2)
  - v) Donations can not be made out of the accumulated income. (Para 27)
  - w) The trust or institution shall not pass on any benefit to the related persons and if that is done, such amount is taxable as per the provisions of section 115BBI, and a penalty is required to be levied as per the provisions of section 271AAE with effect from AY 2023-24 [Upto AY 2022-23 exemption is not allowed in such cases as per the provisions of section 13(1)© ]. (Para 33)
  - x) The trust or institution should invest all the funds in the modes prescribed u/s 11(5) and any violation will make such amount taxable as per the provision of section 115BBI with effect from AY 2023-24 [up to AY 2022-23 exemptions is not allowed in such cases as per the provisions of section 13(1)(d)]. (Para 29)
  - y) The trust or institution should maintain the books of account prescribed under rule 17AA, failing which the exemption is denied and the net income computed as per the 22nd and 23rd proviso to clause (23C) of section 10 and sub-section (10) and (11) of section 13 of the Act becomes taxable with effect from AY 2023-24 [upto AY 2022-23 there was no specific provision to maintain books of account]. (Para 30)
  - z) The trust or institution should furnish the return of income within time, failing which the exemption is denied and the net income computed as per the 22nd and 23rd proviso to clause (23C) of section 10 and sub-section (10) and (11) of section 13 of the Act becomes taxable with effect from AY 2023-24 [upto AY 2022-23 exemptions is not allowed in such cases as per the provisions of clause (ba) of sub-section (1) of section 12A of the Act]. (Para 31)

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- aa) The trust or institution should get its accounts audited within time, failing which the exemption is denied and the net income computed as per the 22nd and 23rd proviso to clause (23C) of section 10 and sub-section (10) and (11) of section 13 of the Act becomes taxable with effect from AY 2023-24 [upto AY 2022-23 exemptions is not allowed in such cases as per the 10th proviso to clause (23C) of section 10 or clause (b) of sub-section (1) of section 12A of the Act]. (Para 32)
  - bb) The trust or institution approved under section 80G(5) also needs to furnish a statement of donation each year in form no 10BD as per clause (vii) of sub section (5) of section 80G of the Act. (Para 18)
  - cc) The trust or institutions are allowed to claim either the depreciation or cost of acquisition of the capital asset as application. (Para 24)
  - dd) The C&AG in its report on NPO sector in 2022 has given certain crucial findings. Executive summary of these findings is reproduced in **Annexure-B**.
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## 12. CHARITABLE PURPOSE

- 12.1 As per clause (15) of section 2 of the Act, "charitable purpose" includes:-
- a) relief of the poor
  - b) education
  - c) yoga
  - d) medical relief
  - e) preservation of the environment (including watersheds, forests, and wildlife)
  - f) preservation of monuments or places or objects of artistic or historic interest, and
  - g) the advancement of any other object of General Public Utility (**GPU**).
- 12.2 Trusts of institutions can be formed with one or more of the charitable or religious purposes. Where a trust or institution has not been established under an instrument, the Assessing Officer should verify the objects for which the trust or institution has been created and whether those objects have been adhered to by the trust or institution. If the trust or institution carries out any activity beyond its objects, it will become a specified violation, and a reference is required to be sent to the PCIT/CIT for the cancellation of the registration of the trust or institution as per the provisions of sub-section (4) of section 12AB or the 15th proviso to clause (23C) of section 10 of the Act.

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12.3 Reference to the PCIT/CIT is required to be made as per the provisions of the 2nd proviso to sub-section (3) of section 143 of the Act. Once such reference is made, time barring date for assessment will get covered under exclusion provisions as per clause (xiii) of the Explanation (1) to section 153 of the Act by a period commencing from the date on which the Assessing Officer makes a reference to the Principal Commissioner or Commissioner under the second proviso to sub-section (3) of section 143 and ending with the date on which the copy of the order under clause (ii) or clause (iii) of the 15th proviso to clause (23C) of section 10 or clause (ii) or clause (iii) of sub-section (4) of section 12AB, as the case may be, is received by the AO.

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**Verification of charitable purpose(s):-**

- a. The income of the trust or institution shall not be applied for the benefit of any particular religious community or caste.
  - b. If the income of the trust or institution is applied for the benefit of only those who are members of the trust or institution or to a select group of people, that may not be a public charitable or religious trust or institution.
  - c. Charitable or religious trusts or institutions are different from mutual benefit organizations that act for the benefit of their members. The income of mutual benefit organizations is not exempt as per the provisions of clause (23C) of section 10 or section 11/12.
  - d. The AO should examine whether the activities carried out by the trust or institution fall within clause (15) of section 2 of the Act, as well as the objects of the trust that have been approved or registered by the CPC/CIT as per the registration certificate in form 10AC/10AD.
  - e. Even if a particular activity carried out by the trust or institution is covered under clause (15) of section 2 of the Act but the same is not covered under the object clause of the registered trust deed/memorandum of the society/company, carrying out of such activity shall result in a specified violation and a reference for the cancellation of registration/approval is required to be made to the PCIT/CIT.
  - f. Hon'ble Supreme Court in Sole Trustee Loka Shikshana Trust vs Commissioner Of Income Tax has held that education means formal education and therefore, the AO should verify whether the courses conducted by the education institutions are approved by the regulators such as UGC/AICTE/CBSE/State Boards, etc.
  - g. AO should verify whether the trust or institution claiming exemption as GPU is a commercial enterprise running on the commercial lines. In such cases, the benefit of exemption shall not be allowed.
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## 13. HON'BLE SUPREME COURT DECISION IN NEW NOBLE EDUCATIONAL SOCIETY

- 13.1 Sub-clause (vi) and (via) of clause (23C) contain a specific condition that it should exist solely for educational purposes/ philanthropic purposes and not for purposes of profit. The relevant sub-clauses are reproduced below:

*“(vi) any university or other educational institution existing **solely for educational purposes and not for purposes of profit**, other than those mentioned in sub-clause (iiiab) or sub-clause (iiiad) and which may be approved by the Principal Commissioner or Commissioner or*

*(via) any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing **solely for philanthropic purposes and not for purposes of profit**, other than those mentioned in sub-clause (iiiac) or sub-clause (iiiad) and which may be approved by the Principal Commissioner or Commissioner”*

- 13.2 Recently Hon'ble Supreme Court in the case of M/S NEW NOBLE EDUCATIONAL SOCIETY (civil appellate jurisdiction civil appeal no. 3795 of 2014 in the case of M/s New Noble Educational Society versus the Chief Commissioner of Income Tax) held as follows:

- a. The requirement of the charitable institution, society trust or institution, etc., to 'solely' engage itself in education or educational activities, and not engage in any activity of profit, means that such institutions cannot have objects that are unrelated to education. In other words, all objects of the society, trust, etc., must relate to imparting education or be about educational activities.
- b. Where the objective of the institution appears to be profit-oriented, such institutions would not be entitled to claim exemption under Section 10(23C) of the Act. At the same time, where surplus accrues in a given year or set of years per se, it is not a bar, provided such surplus is generated in the course of providing education or educational activities.

- 13.3 Therefore, in case of an educational or medical institution referred to under sub-clause (vi) and (via) of clause (23C) of section 10, the AO shall verify whether the activities of the trust or institution are being carried out solely for the purposes for which the trust or institution is approved and whether it is profit oriented.

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## 14. COMMERCIAL ACTIVITIES

14.1 There are 3 different provisions related to commercial activities:-

- a) Commercial activities by GPU.
- b) Incidental commercial activities (7th proviso to clause (23C) of section 10 or sub-section(4A) or section 11.
- c) Commercial activities as per sub-section (4) of section 11.

14.2 Where the trust or institution is carrying out commercial activities, the following aspects are required to be examined:

- a) As per the decision of the Hon'ble Supreme Court in AUDA [civil appeal no. 21762 of 2017 in the case of Assistant Commissioner of Income Tax (Exemptions) versus Ahmedabad Urban Development Authority], an activity is a commercial activity if the markup on the activity is above the nominal markup.
- b) The Hon'ble Supreme Court has also ruled in the AUDA case that the facts of each year are to be examined separately and therefore, even if for a particular year, the courts have decided that the activities are not commercial, the facts of each of the year are to be examined separately.

### 14.3 Commercial activities by GPU

14.3.1 Proviso to clause (15) of section 2 provides that the advancement of any other object of a GPU shall not be a charitable purpose, if:

- a) it involves the carrying on of any activity in the nature of trade, commerce, or business, or any activity of rendering any service about any trade, commerce, or business; and
- b) such activity is for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless—
  - i. such activity is undertaken in the course of actual carrying out of such advancement of any other object of GPU; and
  - ii. the aggregate receipts from such activity or activities during the previous year, do not exceed twenty percent of the total receipts of the trust or institution undertaking such activity or activities, of that previous year;

14.3.2 Proviso to section 2(15) is also applicable in the cases of trust or institution registered under clause (23C) of section 10, as per 18th proviso to clause (23C) of section 10.

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14.3.3 In the case of GPU, it needs to be examined whether the incidental commercial activities are within the range of 20%, failing which the exemption is denied and the net income computed as per the 22nd and 23rd proviso to clause (23C) of section 10 and sub-section (10) and (11) of section 13 of the Act becomes taxable. (up to AY 2022-23, exemption will be denied in such case as per the 18th proviso to clause (23C) of section 10 or sub-section (8) of section 13 of the Act).

14.4 **Incidental commercial activities (7th proviso to clause (23C) of section 10 or sub-section(4A) of section 11**

14.4.1 Where the trust or institution (whether GPU or any other trust or institution) carries out any business activity and such business is not incidental to the attainment of the objectives of the trust or institution business activity is incidental but or separate books of account are not maintained by such trust or institution, it shall be a specified violation as per the provisions of sub-section (4) of section 12AB or the 15th proviso to clause (23C) of section 10 of the Act and a reference is required to be sent to the PCIT/CIT for the cancellation of the registration of the Trust or institution.

14.4.2 Reference to the PCIT/CIT is required to be made as per the provisions of the 2nd proviso to sub-section (3) of section 143 of the Income-tax Act. Once such reference is made, time barring date for assessment will get covered under exclusion provision as per clause (xiii) of the Explanation (1) to section 153 of the Act by a period commencing from the date on which the Assessing Officer makes a reference to the Principal Commissioner or Commissioner under the second proviso to sub-section (3) of section 143 and ending with the date on which the copy of the order under clause (ii) or clause (iii) of the 15th proviso to clause (23C) of section 10 or clause (ii) or clause (iii) of sub-section (4) of section 12AB, as the case may be, is received by the AO.

14.5 **Commercial activities as per sub-section (4) of section 11**

14.5.1 Where the “property held under trust” includes a business undertaking so held, income from such business undertaking shall also be exempt subject to the conditions as per the provisions of sub-section (4) of section 11 of the Act. In such cases, the AO needs to compute the income of the business undertaking as per the provisions of the Act and where income so computed exceeds the income shown in the books of accounts of the trust or institution, such excess shall be taxable. The AO shall also verify whether separate books of account have been maintained by the trust or institution.

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**Verification of commercial activities:**

- a) The Assessing Officer may examine whether any TDS u/s 194C/J/H of the Act has been deducted in the case of the trust or institution. This information is available to the AO as

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per the AIS statement. TDS u/s 194C is deducted for carrying out contractual work and TDS u/s 194J is deducted for rendering professional services. If the trust or institution has disclosed certain receipts on which TDS under any of these sections has been deducted, then it needs to be verified whether these receipts are from any business activity or not and secondly, whether such business activity is incidental to the main activities of the trust or institution or not.

- b) The Assessing Officer may examine whether separate books of accounts are maintained by the trust or institution for trade or business activities claimed to be incidental as required by section 11(4A) or 7th proviso to clause(23C) of section 10..
- c) The Assessing Officer may examine whether the business activities carried out by the trust or institution are incidental to carrying out the main activities and are emanating from the main activities.
- d) The Assessing Officer may examine whether the trust or institution is carrying out any activity like GPU. The AO should carefully examine the objects of trust or institution and whether charitable activities are actually being undertaken. Whether the activities are in the nature of the first six limbs of section 2(15) may also be examined by information available in the public domain, physical verifications, verifications from third parties such as the District Authorities where charitable activities were carried out or from different government agencies for whom projects were carried out by the trust or institution.
- e) The PCIT/CIT while issuing the certificate of registration may specifically mention the category of charitable activities for which registration is granted. The AO should carefully go through the registration documents to examine whether the trust or institution has adhered to the nature of activities as per the registration document granted.

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## **15. CHANGE OF OBJECTS OF THE TRUST OR INSTITUTION**

- 15.1 Where there have been changes in the objects of the trust or institution during the previous year, the Assessing officer needs to verify whether such amended objects have been approved by the PCIT/CIT from which date such amendments are effected and whether those objects have been adhered to by the trust or institution. If the trust or institution carries out any activity beyond its objects, it will become a specified violation, and a reference is required to be sent to the PCIT/CIT for the cancellation of the registration of the trust or institution as per the provisions of sub-section (4) of section 12AB or the 15th proviso to clause (23C) of section 10 of the Act.



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## 16. INCOME

16.1 The term “income” has been defined under clause (24) of section 2 of the Act to include several specified things. It is noteworthy that the definition, although very wide in scope, is still only an inclusive one, and not an exhaustive or exclusive one. In other words, in addition to the things specifically mentioned under Section 2(24), such other things which the word signifies in natural or common usage will also fall within the meaning of “income”.

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### **Verification of Income:**

- a) The Assessing Officer may examine whether any income has been directly credited to the balance sheet in Reserve and Surplus. Some examples may be development fees, membership fees etc directly taken to the balance sheet. 85% of the entire income is required to be applied and any shortfall, unless accumulated as per the provisions of the Act, is taxable.
  - b) The Assessing Officer may examine whether income arising out of investments has been directly taken to the balance sheet and added to the investment. Such income also needs to be applied for charitable purposes.
  - c) The Assessing Officer may examine whether any income has been reported to the Income Tax Department, by any reporting entity, that has not been disclosed by the trust or institution in its computation of income. Such information can be accessed through AIS information in the ITBA/ITD system.
  - d) The AO should examine whether all the assets of trust/institutions are being used for charitable purposes especially immovable properties. A list of immovable properties may be called for. There may be instances where the trust properties are occupied/used by the trustees or their relatives for their personal use or running their businesses etc. At times such properties may not be visible from the balance sheet since they may have been received as donations in kind and may not have been recorded in the books of account.
  - e) The AO should examine whether the resources of the trust/institution have been used for the personal benefits of trustees or other specified persons. There may be instances where the employees of trust are used for the personal benefit of trustees. Recording of statements of such persons may reveal their actual usage.
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## 17. RECEIPTS FROM INCIDENTAL OBJECTS

- 17.1 Where the trust or institution has declared substantial receipts from incidental objects in the schedule AI of ITR, the AO may verify whether the receipts are from a business which is incidental to the attainment of the objects of the trust or institution and whether the exemption claimed on account of the same is correct.
- 17.2 If a trust or institution has applied any income for any purpose other than the purpose for which the trust or institution is registered, it shall be a specified violation. Further, if a trust or institution has any income from business activities that are not incidental to the attainment of its objectives, it shall also be a specified violation. A reference in cases of specified violations is required to be sent to the PCIT/CIT for the cancellation of the registration of the trust or institution as per the provisions of sub-section (4) of section 12AB or the 15th proviso to clause (23C) of section 10 of the Act.
- 17.3 Reference to the PCIT/CIT is required to be made as per the 2nd proviso to sub-section (3) of section 143 of the Act. Once such reference is made, time barring date for assessment will get covered under exclusion provisions as per clause (xiii) of the Explanation (1) to section 153 of the Act by a period commencing from the date on which the Assessing Officer makes a reference to the Principal Commissioner or Commissioner under the second proviso to sub-section (3) of section 143 and ending with the date on which the copy of the order under clause (ii) or clause (iii) of the 15th proviso to clause (23C) of section 10 or clause (ii) or clause (iii) of sub-section (4) of section 12AB, as the case may be, is received by the AO.

## 18. DONATIONS

- 18.1 As per the provisions of sub-clause (iia) of clause (15) of section 2 of the Act, voluntary contributions (donations) received by these entities from their donors shall form part of their income. The Act deals with such voluntary contributions which are deemed to be the income of the trust or institutions under sub-clause (iia) of clause (24) of section 2 of the Act primarily in three ways.
- a) Firstly, anonymous contributions (if any) out of these are dealt with in the manner provided under 16th proviso to clause (23C) of Section 10 or Section 13(7) and section 115BBC.
  - b) Secondly, voluntary contributions which are in the nature of corpus donations are eligible for exemption (i.e., rules regarding the extent of application or accumulation of income do not apply to corpus donations) under Explanation 1 to the 3rd proviso to clause (23C) of Section 10 or Section 11(1)(d).

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- c) Thirdly, voluntary contributions, which are neither anonymous nor corpus donations, are eligible for exemption under the other provisions of clause(23C) of section 10 or Section 11, subject to the fulfillment of conditions specified therein.
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### **Verification of Donations:**

- a) The Assessing Officer may examine whether all voluntary contributions have been shown as income by the trust or institution. The donation register/receipt register may be examined in this regard. Examination of bank statements may also reveal some receipts that have not been accounted for by the trust or institution.
- b) A report by banks of charitable institutions is also filed with FIU. In appropriate cases, request may be made to FIU regarding the bank accounts maintained by the trust or institution which may reveal some undisclosed accounts.
- c) The Assessing Officer may examine whether the receipts, declared as voluntary contributions, are in the nature of donations or receipts for carrying out some work or rendering services. In case, the receipts are for rendering services, the applicability of provisions of sections 11(4), 11(4A) and proviso to section 2(15) need to be examined. In case TDS has been deducted on such transactions under section 194C/J, the same would be reflected in Form 26AS which is available to AO as a part of AIS.
- d) Copy of grant letters and agreements may also be examined to ascertain the true nature of receipt.
- e) The Assessing Officer may examine whether the records with respect to the identity of the donors are maintained by the trust or institution. In case such records are not maintained, donations may be anonymous donation taxable u/s 115BBC as per the provisions of section 115BBC in the case of charitable institutions. In some cases, donations may not have been given by such a person. AO may verify such cases on a sample basis by sending notices to the donors.
- f) In case of suspicious foreign donations, a request may be made to the FT&TR Division of CBDT to get information from respective countries about the genuineness of donations.
- g) Trusts or institutions are required to furnish form 10BD providing the details of all the donors. Form 10BD may be reconciled with the donations disclosed by the trust or institution as income.
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## 19. FOREIGN DONATIONS RECEIVED BY THE TRUST OR INSTITUTION

- 19.1 Where the trust or institution has received foreign donations during the current year, whether the trust or institution received foreign contribution/ donation in compliance with the provisions of the Foreign Contribution Regulatory Act, 2010 may be verified. The tax treatment of the same may also be examined.
- 19.2 If a trust or institution has not complied with the provisions of the Foreign Contribution Regulation Act and the order, direction, or decree, holding that such non-compliance has occurred, has either not been disputed, or has attained finality, it shall be a specified violation. A reference in cases of specified violations is required to be sent to the PCIT/CIT for the cancellation of the registration of the trust or institution as per the provisions of sub-section (4) of section 12AB or 15th proviso to clause (23C) of section 10 of the Act.
- 19.3 Reference to the PCIT/CIT is required to be made as per the provisions of the 2nd proviso to sub-section (3) of section 143 of the Act. Once such reference is made, time barring date for assessment will get covered under exclusion provisions as per clause (xiii) of the Explanation (1) to section 153 of the Act by a period commencing from the date on which the assessing officer makes a reference to the Principal Commissioner or Commissioner under the second proviso to sub-section (3) of section 143 and ending with the date on which the copy of the order under clause (ii) or clause (iii) of the 15th proviso to clause (23C) of section 10 or clause (ii) or clause (iii) of sub-section (4) of section 12AB, as the case may be, is received by the AO.

## 20. ANONYMOUS DONATIONS

- 20.1 If the trust or institution (other than a religious institution) is receiving donations and does not maintain a record of the identity indicating the name and address of the person making such donation, such donation will be treated as anonymous donation which is taxable as per the provision of section 115BBC of the Act.
- 20.2 As per the provisions of section 115BBC, anonymous donations received in excess of the higher of the following, are taxable:—
- a. five percent of the total donations received by the trust or institution; or
  - b. one lakh rupees, and
- 20.3 Anonymous donations are not taxable if they are received by:-
- a. any trust or institution created or established wholly for religious purposes;

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- b. any trust or institution created or established wholly for religious and charitable purposes other than any anonymous donation made with a specific direction that such donation is for any university or other educational institution or any hospital or other medical institution run by such trust or institution.

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#### **Verification of Anonymous Donations:**

- a) The Assessing Officer may examine whether the names and addresses of all the donors have been submitted by the trust or institution.
  - b) The Assessing Officer may examine whether the trust or institution has been registered u/s 80G. In such cases religious activities cannot exceed 5% of its total income during the previous year. Since, exemption from section 115BBC is generally available only to religious institutions, hence generally both benefits u/s 80G and exemption for anonymous donations u/s 115BBC, exceeding the specified limit, may not be allowed.
  - c) Trusts or institutions are required to furnish form 10BD providing the details of all the donors. Form 10BD may be reconciled with the donations disclosed by the trust or institution as income.
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## **21. CORPUS DONATIONS**

21.1 As per the provisions of Explanation 1 to the third proviso to clause (23C) of section 10 and clause (d) of sub-section (1) of section 11 of the Act, voluntary contributions received by the trust or institution with a specific direction that they shall form part of the corpus of the trust or institution are not required to be applied, subject to the condition that such voluntary contributions are invested or deposited in one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus. If such donations have to be treated as corpus donations, the AO needs to verify the following:-

- a) There is a specific direction from the donor that the voluntary contribution shall form part of the corpus.
- b) The donations are invested or deposited in one or more of the forms or modes specified in sub-section (5) of section 11.
- c) Such investments or deposits are maintained specifically for such corpus donations.

21.2 With effect from AY 2022-23, as per the provisions of clause (i) of Explanation 2 to 3rd proviso to clause (23C) of section 10, application from the corpus is not treated as an application for charitable or religious purposes. However, when it is invested or deposited back into the corpus, such an amount is treated as an application. With effect from AY 2023-24, the

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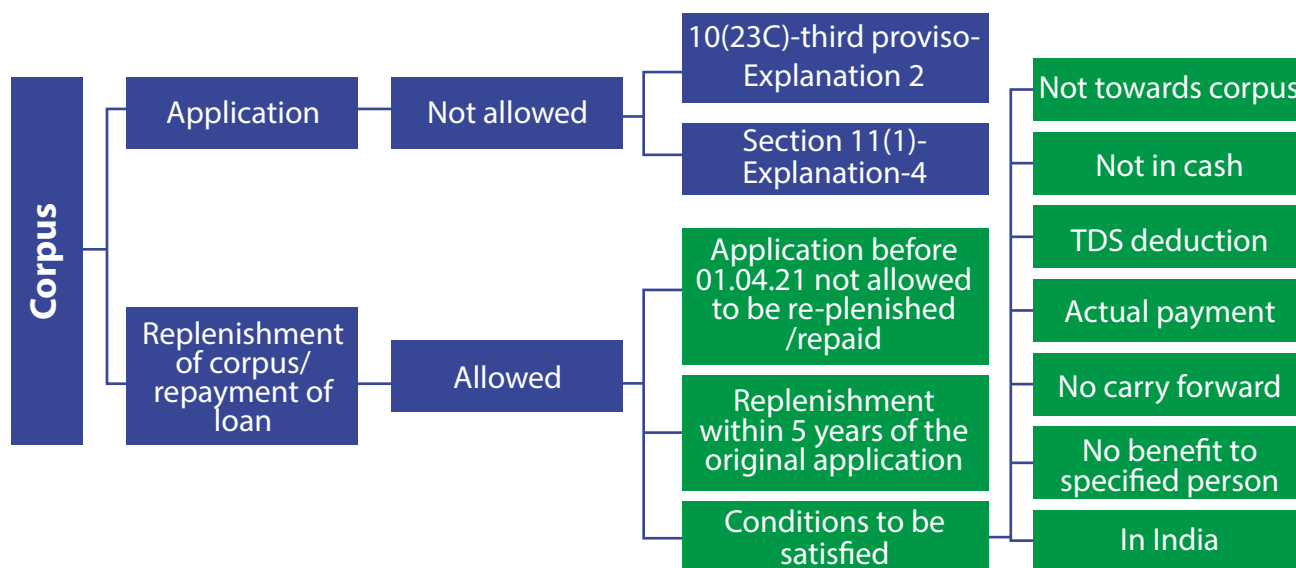
following further conditions are required to be satisfied to claim application at the time of replenishment of corpus:-

- a) Application from corpus should have been made on or after 01.04.2021.
- b) Replenishment should take place within 5 years of the previous year in which the application was made.
- c) Application from corpus should have satisfied the following conditions:-
  - i. Donation towards corpus not allowed [12th proviso] **Finance Act, 2017 (wef AY 18-19)**
  - ii. Donation to other trusts: only 85% allowed [Clause (iii) of Explanation 2 to the third proviso] **Finance Act, 2023 (wef AY 24-25)**
  - iii. Section 40(a)(ia) (No TDS-30% application is disallowed) (13th proviso) **Finance Act, 2018 (wef AY 19-20)**
  - iv. Section 40A(3)/(3A): application in cash > Rs. 10,000 is disallowed (13th proviso) **Finance Act, 2018 (wef AY 19-20)**
  - v. No carry forward is allowed [Explanation 2 to clause (23C)] **Finance Act, 2021 (wef AY 22-23)**
  - vi. Actual payment basis [Explanation 3 to clause (23C)] **Finance Act, 2022 (wef AY 22-23)**
  - vii. No benefit to specified persons [21st proviso to clause (23C)] **Finance Act, 2022 (wef AY 23-24).**

21.3 With effect from AY 2022-23, as per the provisions of clause (i) of Explanation 4 to sub-section (1) of section 11, an application from the corpus is not treated as an application for charitable or religious purposes. However, when it is invested or deposited back into the corpus, such an amount is treated as an application. With effect from AY 2023-24, the following further conditions are required to be satisfied to claim application at the time of replenishment of corpus:-

- a) Application from corpus should have been made on or after 01.04.2021.
- b) Replenishment should take place within 5 years of the previous year in which the application was made.
- c) Application from corpus should have satisfied the following conditions:-
  - i. Application should be in India [section 11(1)(a) and 11(1)(b)]
  - ii. Donation towards corpus not allowed [Explanation 2 to sub-section (1) of section 11] **Finance Act, 2017 (wef AY 18-19)**
  - iii. Donation to other trusts or institutions: only 85% allowed [Clause (iii) of Explanation 4 to sub-section (1) of section 11] **Finance Act 2023 (wef AY 24-25)**
  - iv. Section 40(a)(ia) (No TDS-30% application is disallowed) [Explanation 3 to sub-section (1) of section 11] **Finance Act, 2018 (wef AY 19-20)**

- v. Section 40A(3)/(3A): application in cash > Rs. 10,000 is disallowed [Explanation 3 to sub-section (1) of section 11] **Finance Act, 2018 (wef AY 19-20)**
- vi. No carry forward is allowed [Explanation 5 to sub-section (1) of section 11] **Finance Act, 2021 (wef AY 22-23)**
- vii. Actual payment basis (Explanation to section 11) **Finance Act, 2022 (wef AY 22-23)**
- viii. No benefit to specified persons [section 13(1)(c)]



### Verification of Corpus Donations:

- a) The Assessing Officer may examine whether the receipts claimed to be corpus donation by the trust or institution qualify the following conditions:
  - The receipt is in the nature of the donation
  - The donation is made voluntarily
  - The donor gives a specific direction that the donation is for the corpus
- b) If the trust or institution has received fees from the applicant members/students, it will not be in the nature of the donation since donation is made voluntarily without any expectation of return. Secondly, the term 'voluntary' indicate the discretion of the donor both in terms of donating and the quantum of the donation. In this case, the person giving money to the trust or institution does not have discretion in terms of the amount to be paid then this cannot be regarded as a corpus donation. For example, in case of membership fees etc., there is no discretion regarding the amount to be paid. Lastly, there has to be a specific direction of donation towards corpus which can arise only when the donor has an option to choose.

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- c) The Assessing Officer may examine whether a corpus donation has been received from another organization on or after A.Y. 18-19. In such cases, as per Explanation 2 to section 11, such donor will not be eligible to claim such donation as an application.
  - d) The Assessing Officer may examine whether the corpus donations claimed by the trust or institution are genuine. In case the source of the donations is not found to be genuine, provisions of section 68 read with section 115BBE may be examined.
  - e) The Assessing Officer may examine whether the receipts claimed to be corpus donations by the trust or institution are meant for permanent funds. Corpus donation means voluntary contribution towards permanent funds which had been given with a specific direction and therefore, it cannot be used in any manner contrary to the direction of the donor. Normally, diversion of the corpus fund for any other purpose is a clear violation of the specific direction of the donor and also against the spirit of the applicable laws of the land.
  - f) The Assessing Officer may examine whether any income from the corpus fund has also been treated as corpus donation. The income from the corpus fund has to be treated as income and 85% thereof needs to be applied.
  - g) In certain cases, corpus donations may be used as a means of tax evasion since the donor gets tax deductions u/s 80G, and the donee's income is also exempt without mandatory 85% application. In cases where the AO has reasons to doubt, a detailed investigation may be carried out into the bank statements of both donor and donee to find out instances of cash withdrawal if any, the communication between donor and donee should also be examined to verify the intention of the donor, instances of donations by the same donor to other donees during the same period may also help ascertain the genuineness of transactions.
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## **22. BORROWED FUNDS BY TRUST OR INSTITUTION**

- 22.1 Where any trust or institution has filed details of borrowed funds, it may be examined whether application from such borrowings have been claimed as application for charitable or religious purposes and the allow ability thereof.
- 22.2 With effect from AY 2022-23, as per the provisions of clause (ii) of Explanation 2 to 3rd proviso to clause (23C) of section 10, application from loan or borrowing shall not be treated as application for charitable or religious purposes. However, when it is repaid, such an amount is treated as an application. With effect from AY 2023-24, the following further conditions are required to be satisfied to claim application at the time of repayment of loan or borrowing:-



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- a) Application from loan or borrowing should have been made on or after 01.04.2021.
  - b) Repayment should take place within 5 years of the previous year in which the application was made.
  - c) Application from loan or borrowing should have satisfied the following conditions:-
    - i. Donation towards corpus not allowed [12th proviso] **Finance Act, 2017 (wef AY 18-19)**
    - ii. Donation to other trusts or institutions: only 85% allowed [Clause (iii) of Explanation 2 to the third proviso] **Finance Act, 2023 (wef AY 24-25)**
    - iii. Section 40(a)(ia) (No TDS-30% application is disallowed) (13th proviso) **Finance Act, 2018 (wef AY 19-20)**
    - iv. Section 40A(3)/(3A): application in cash > Rs. 10,000 is disallowed (13th proviso) **Finance Act, 2018 (wef AY 19-20)**
    - v. No carry forward is allowed [Explanation 2 to clause (23C)] **Finance Act, 2021 (wef AY 22-23)**
    - vi. Actual payment basis [Explanation 3 to clause (23C)] **Finance Act, 2022 (wef AY 22-23)**
    - vii. No benefit to specified persons [21st proviso to clause (23C)] **Finance Act, 2022 (wef AY 23-24).**

22.3 With effect from AY 2022-23, as per the provisions of clause (ii) of Explanation 4 to sub-section (1) of section 11, an application from loan or borrowing shall not be treated as an application for charitable or religious purposes. However, when it is repaid, such an amount is treated as an application. With effect from AY 2023-24, the following further conditions are required to be satisfied to claim application at the time of repayment of loan or borrowing:-

- a) Application from loan or borrowing should have been made on or after 01.04.2021.
- b) Repayment should take place within 5 years of the previous year in which the application was made.
- c) Application from loan or borrowing should have satisfied the following conditions:-
  - i. Application should be in India [section 11(1)(a) and 11(1)(b)]
  - ii. Donation towards corpus not allowed [Explanation 2 to sub-section (1) of section 11] **Finance Act, 2017 (wef AY 18-19)**
  - iii. Donation to other trusts or institutions: only 85% allowed [Clause (iii) of Explanation 4 to sub-section (1) of section 11] **Finance Act, 2023 (wef AY 24-25)**
  - iv. Section 40(a)(ia) (No TDS-30% application is disallowed) [Explanation 3 to sub-section (1) of section 11] **Finance Act, 2018 (wef AY 19-20)**

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- v. Section 40A(3)/(3A): application in cash > Rs. 10,000 is disallowed [Explanation 3 to sub-section (1) of section 11] **Finance Act, 2018 (wef AY 19-20)**
  - vi. No carry forward is allowed [Explanation 5 to sub-section (1) of section 11] **Finance Act, 2021 (wef AY 22-23)**
  - vii. Actual payment basis (Explanation to section 11) **Finance Act, 2022 (wef AY 22-23)**
  - viii. No benefit to specified persons [section 13(1)(c.)]

## 23. APPLICATION OF INCOME

- 23.1 Every trust or institution should apply at least 85% of its income during the year for charitable or religious purposes for which it is registered.
- 23.2 If a trust or institution has applied any income for any purpose other than the purpose for which the trust or institution is registered, it shall be a specified violation, and a reference is required to be sent to the PCIT/CIT for the cancellation of the registration of the trust or institution as per the provisions of sub-section (4) of section 12AB or the 15th proviso to clause (23C) of section 10 of the Act.
- 23.3 Reference to the PCIT/CIT is required to be made as per the provisions of the 2nd proviso to sub-section (3) of section 143 of the Income-tax Act. Once such reference is made, time barring date for assessment will get covered under exclusion provision as per clause (xiii) of the Explanation (1) to section 153 of the Act by a period commencing from the date on which the assessing officer makes a reference to the Principal Commissioner or Commissioner under the second proviso to sub-section (3) of section 143 and ending with the date on which the copy of the order under clause (ii) or clause (iii) of the 15th proviso to clause (23C) of section 10 or clause (ii) or clause (iii) of sub-section (4) of section 12AB, as the case may be, is received by the AO.
- 23.4 As per the provision of Explanation 3 to clause (23) of section 10 and Explanation to section 11, the application shall be allowed only when the sum is actually paid by the trust or institution. As per the proviso to these Explanations, the sum paid shall not be allowed as an application during the previous year, if the same has been claimed as an application during any previous year prior to the current previous year.
- 23.5 In case of a trust or institution approved under clause (23C) of section 10, application should satisfy the following further conditions:-
  - i. Donation towards corpus not allowed [12th proviso] **Finance Act, 2017 (wef AY 18-19)**

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- ii. Donation to other trusts: only 85% allowed [Clause (iii) of Explanation 2 to the third proviso] **Finance Act, 2023 (wef AY 24-25)**
  - iii. Section 40(a)(ia) (No TDS-30% application is disallowed) (13th proviso) **Finance Act, 2018 (wef AY 19-20)**
  - iv. Section 40A(3)/(3A): application in cash > Rs. 10,000 is disallowed (13th proviso) **Finance Act, 2018 (wef AY 19-20)**
  - v. No carry forward is allowed [Explanation 2 to clause (23C)] **Finance Act, 2021 (wef AY 22-23)**
  - vi. Actual payment basis [Explanation 3 to clause (23C)] **Finance Act, 2022 (wef AY 22-23)**
  - vii. No benefit to specified persons [21st proviso to clause (23C)] **Finance Act, 2022 (wef AY 23-24).**
- 23.6 In case of a trust or institution registered under section 12AB, application should satisfy the following further conditions:-
- i. Application should be in India [section 11(1)(a) and 11(1)(b)]
  - ii. Donation towards corpus not allowed [Explanation 2 to sub-section (1) of section 11] **Finance Act, 2017 (wef AY 18-19)**
  - iii. Donation to other trusts or institutions: only 85% allowed [Clause (iii) of Explanation 4 to sub-section (1) of section 11] **Finance Act, 2023 (wef AY 24-25)**
  - iv. Section 40(a)(ia) (No TDS-30% application is disallowed) [Explanation 3 to sub-section (1) of section 11] **Finance Act, 2018 (wef AY 19-20)**
  - v. Section 40A(3)/(3A): application in cash > Rs. 10,000 [Explanation 3 to sub-section (1) of section 11] **Finance Act, 2018 (wef AY 19-20)**
  - vi. No carry forward is allowed [Explanation 5 to sub-section (1) of section 11] **Finance Act, 2021 (wef AY 22-23)**
  - vii. Actual payment basis (Explanation to section 11) **Finance Act, 2022 (wef AY 22-23)**
  - viii. No benefit to specified persons [section 13(1)(c)]
- 23.7 Donation to any trust or institution which is not registered under clause (23C) of section 10 or section 12AB or to a trust or institution which has different objectives shall not qualify as application.

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### **Verification of application of Income:**

- a) The Assessing Officer may examine whether any fee concession, etc, has been shown both in the income and application side of the Income & Expenditure account. It will result in an allowance of an extra 15% application on such concession since such concession does not form part of the income.
- b) The Assessing Officer may examine whether any capital asset was acquired out of borrowed funds and the cost of acquisition as well as the repayment of loan has been claimed as application. Both the claims may also be made by the trust or institution in different years. This will result in a double deduction of the same application. The AO should examine the financial statements and computation of income of the relevant year in which the asset was acquired, in case if repayment of the loan is claimed during the year, to verify whether it is a case of double deduction.
- c) The Assessing Officer may examine whether the claim of application on account of different expenses is genuine and is supported by appropriate documentary evidence. Here, the focus of AO should be on the identification of cases of diversion of funds through bogus or inflated expenses. It needs to be checked whether money has been taken away from the trust or institution by booking such bogus expenses, in which case, the entire exemption may be denied and a reference is required to be sent to the PCIT/CIT for specified violation. However, for denial of exemption, the inquiries should be carried out to establish linkage of siphoning of funds from trusts or institutions. The data available from open source on the relationship between the parties in whose name expenses have been booked by the trust or institutions and specified persons may be helpful. For example, in some cases, the company to whom bogus payments have been made is owned by one of the specified persons.
- d) In certain cases, the person from whom goods/services have been claimed to be purchased/procured may not exist at all. In some such cases, the case of such persons might have been selected in NMS (Non-Filler Monitoring System) and the notice served on such person might have returned. The AO may enquire in to the the existence of such parties. The names of such persons may also be searched in the list of entry operators circulated by the department from time to time.
- e) Bank statements of third parties to whom payments have been claimed to be made by the trust or institution may also be examined to verify the flow of funds.

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- f) In suitable cases, the AO can also get physical verification done to examine the existence of the trust or institution, the genuineness of activities carried out, and to gather information about any noncharitable activity carried out by the trust or institution.
  - g) The Assessing Officer may examine whether the application claimed is towards an object specifically stated in the deed of registration, else such activities would be beyond the scope of the trust/institution and would not be allowable.
  - h) If the trust or institution has given donations to other trusts/institutions and claimed them as applications, the AO should verify whether the donee trust is also registered as a charitable institution with Income Tax Department and the donation is not in the nature of the corpus donation.
  - i) The Assessing Officer may examine whether the beneficiaries are public at large or certain private individuals. In case benefit is given by the trust or institution to certain individuals who are related to each other by birth, caste or religion, then exemption shall not be available.
  - j) The Assessing Officer may examine whether the trust or institution has been created to give benefit to any particular religious community or caste. Religious trust is allowed to be registered but the benefits passed on by such trust shall not be restricted to a particular religious community or caste.
  - k) The bifurcation of administrative expenses has been done away with in the ITR-7 since there is no difference between application for administrative and other purposes as per the provisions of the Act.
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## **24. CAPITAL EXPENSES AND DEPRECIATION**

- 24.1 Where the trust or institution has incurred capital expenses during the year, the correctness of capital expenses shown as application may be verified. Also, the claim of depreciation on account of the same may also be examined.
- 24.2 As per the provisions of sub-clause (iv)/(v)/(vi)/(via) of clause (23C) of section 10 and sections 11 and 12 of the Act, the trusts need to apply a minimum of 85% of their income and while computing such application, there is no difference between capital and revenue application. However, the entire application has necessarily be towards the objects of the trust or institution for charitable or religious activities in India.
- 24.3 Though the application of capital nature is allowed, the trust can not claim both capital expenditure and depreciation thereon with respect to the same asset. Therefore, the AO

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needs to verify that if capital expenditure has been claimed by the trust or institution as application, depreciation thereon shall not be claimed in any subsequent year with respect to the same asset.

- 24.4 As per the provision of sub-section (6) of section 11 and Explanation 1 to clause (23C) of section 10, where any income is required to be applied or accumulated or set apart for application, then, for such purposes the income shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under this section in the same or any other previous year.

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**Verification of capital assets and depreciation:**

- a) The Assessing Officer may examine whether the trust or institution has claimed depreciation on assets or not. With effect from A.Y. 2015-16, in case if trust or institution claims depreciation, it needs to be verified whether the cost of the asset has also been claimed as the application of income.
- b) The Assessing Officer may examine whether the trust or institution has taken a loan against capital assets and claimed repayment of the loan as the application of income since it may result in a double claim of the same application.
- c) The Assessing Officer may examine whether the sale consideration of an asset on which depreciation was claimed by the trust or institution has been treated in terms of provisions of section 11(1A).

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**25. SET-OFF OF LOSSES CLAIMED**

- 25.1 Explanation 2 to clause (23C) of section 10 and Explanation 5 to section 11 were introduced by the Finance Act, 2021 with effect from AY 2022-23 wherein it has been clarified that calculation of income required to be applied/accumulated shall be made without any set-off or deduction or allowance of any excess application of any preceding years. The claim of set-off of losses may be examined in this context.

**26. APPLICATION OF INCOME OUTSIDE INDIA UNDER SECTION 11(1)(c)**

- 26.1 Where the trust or institution has applied any amount of income outside India u/s 11(1)(c), it needs to be examined whether application of income outside India for charitable or religious purposes, as per the objects of the trust or institution.

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26.2 The taxability of such amount may be examined as per the provisions of section 115BBI with effect from AY 2023-24 [up to AY 2022-23 such income was not exempt as per the provisions of sec 11(1)(c)].

26.3 Finance Act 2022, with effect from AY 2023-24, has also inserted new section 115BBI in the Act to provide that 30% tax shall be payable on the following :

- a) income accumulated or set apart in excess of fifteen percent of the income where such accumulation is not allowed under any specific provisions of the Act;
- b) deemed income referred to in Explanation 4 to the third proviso to clause (23C) of section 10 or sub-section (3) of section 11 or sub-section (1B) of section 11; or
- c) any income that is not exempt under clause (23C) of section 10 on account of violation of the provisions of clause (b) of the third proviso of clause (23C) of section 10 or not to be excluded from total income under the provisions of clause (d) of sub-section (1) of section 13; or
- d) any income which is deemed to be income under the twenty-first proviso to clause (23C) of section 10 or which is not excluded from total income under clause (c) of subsection (1) of section 13; or
- e) any income applied outside India and which is not excluded from total income under clause (c) of sub-section (1) of section 11.

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**Verification of application outside India:**

- a) The Assessing Officer may examine whether a valid approval from CBDT for application outside India is available with the trust or institution and whether the same is valid for the previous year under consideration or not. Such notifications are issued based on the following considerations-
    - i. Whether the trust or institution is allowed to carry out activities outside India as per the deed of registration.
    - ii. Whether the activities carried out outside India are in the nature of charitable activities as defined in section 2(15).
    - iii. Whether the activities carried out outside India tend to promote International Welfare in which India is interested.
  - b) The AO may also verify the transactions relating to foreign remittances reported in Form 15CA/15CC which are made available to the AO in AIS.
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## 27. ACCUMULATION OF INCOME

- 27.1 Where the trust or institution has claimed application out of accumulations during the previous year, whether the amount applied out of accumulation was for the objects of the trust or institution may be verified.
- 27.2 As per the provisions of sub-clause (iv)/(v)/(vi)/(via) of clause (23C) of section 10 and sections 11 and 12 of the Act, the trust or institutions needs to apply a minimum of 85% of its income. However, if the trust or institution is not able to apply 85 % of its income during the previous year, it can accumulate the surplus as per the provisions of Explanation 3, 4, and 5 of the third proviso to clause (23C) of section 10 and sub-section (2),(3) and (3A) of section 11 of the Act.
- 27.3 For such accumulation, the following conditions shall be satisfied:-
- a) Such person furnishes a statement in Form 10 stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed five years;
  - b) The money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5) of section 11 of the Act.
  - c) The statement referred to in clause (a) is furnished by the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year (as per circular 6/2023).
- 27.4 Such accumulated income shall not be applied for giving donations to other trusts or institutions and shall be applied only to charitable or religious activity in India.
- 27.5 Where such accumulated income is utilized for any purpose other than the one for which it has been set apart or is not invested in section 11 (5) modes or not utilized within 5 years or given as donation to any other trust or institution, it shall be taxable in the hands of the trust or institution @ 30% as per the provisions of section 115BBI with effect from AY 2023-24 **[upto AY 2022-23 such income was taxable as per the provisions of sub-section (3) or section 11]**.
- 27.6 The purpose for which the income is accumulated can be changed with the approval of the AO.
- 27.7 Certain trusts or institutions accumulate huge income regularly and claim such income to be applied in the following years. While carrying out the assessment, such application is also required to be verified on the same lines as the verification of application out of current year income.



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### Verification of accumulation of Income:

- a) The Assessing Officer may examine whether Form 10 has been filed online. The forms filed online are available on the e-filing portal. Access to e-filing portal is available to all the AOs. As per the provisions of section 13(9), in case of nonfiling of Form 10 online accumulation will not be allowed.
  - b) The Assessing Officer may examine whether Schedule-I of ITR has been duly filled in by the trust or institution. It contains the details of present as well as past accumulations.
  - c) The Assessing Officer may examine whether the accumulations during the previous year have been applied during the year. The application out of previous years' accumulations during the year is required to be separately reported in Schedule A of ITR-7.
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## 28. TRANSFER OF CAPITAL ASSET

28.1 Section 11(1A) of the Act deals with capital gains arising or accruing to a charitable trust or institution. The position of law is that in the case of a charitable trust or institution eligible for exemption under Section 11, capital gains, whether long-term or short-term, will be deemed to have been applied to charitable purposes and will be exempt from tax to the extent they are reinvested in a new capital asset. The provision applies with necessary modifications to cases where the capital asset is held only partly (and not wholly) for religious or charitable purposes.

28.2 In case the provisions of section 11(1A) are not complied with, the sale consideration of such capital asset needs to be treated as income. The following table will make the legal position quite clear:

Particulars	Business trust or institution		Trust or institution registered u/s 12AA	
	Amount	Deduction allowed	Amount	Deduction allowed
Cost of acquisition	100	Nil	100	100
Depreciation	40	40	40	Nil
WDV	60		60	
Sale consideration	45		45	(-)45
Loss	15	15	15	Nil
Cost of the use of asset	55	55	55	55

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28.3 As seen from the above example, if the asset of Rs 100 is acquired by the trust or institution and sold for Rs 45, it has effectively spent Rs 55 and therefore only Rs 55 shall be allowed as an application. A normal business assessee is not allowed to avail such deduction for the cost of the asset and is rather allowed depreciation of Rs 40 and Rs 15 as loss on the same asset. But in the case of a trust or institution, since the expense of Rs 100 has already been allowed as an expense, at the time of the sale of an asset, the amount of Rs 45, being the sale consideration should be treated as income unless the trust or institution has complied with conditions under section 11(1A).

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**Verification of transfer of capital asset:**

- a) The Assessing Officer may examine whether the trust or institution has claimed depreciation or cost of the asset as the application of income.
  - b) The Assessing Officer may examine whether the trust or institution has invested in new capital assets as per the provision of section 11(1A). In case if trust or institution fails to invest in the new asset as per the provision of section 11(1A), the sale consideration of the asset transfer shall be treated as income.
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## 29. MODES OF INVESTMENT

29.1 Section 11(5) mentions a number of modes of investment in which the income accumulated and set apart under section 11(2), corpus, and other funds must be kept.

29.2 The taxability of such amount which has been invested in violation of provision of section 11(5) may be examined as per the provisions of section 115BBI with effect from AY 2023-24 **[up to AY 2022-23 exemption will not be available as per the provisions of clause (d) of sub-section (1) or section 13].**

29.3 Finance Act 2022, with effect from AY 2023-24, has also inserted new section 115BBI in the Act to provide that 30% tax shall be payable on the following :

- (a) income accumulated or set apart in excess of fifteen percent of the income where such accumulation is not allowed under any specific provisions of the Act;
- (b) deemed income referred to in Explanation 4 to the third proviso to clause (23C) of section 10 or sub-section (3) of section 11 or sub-section (1B) of section 11; or
- (c) any income which is not exempt under clause (23C) of section 10 on account of violation of the provisions of clause (b) of the third proviso of clause (23C) of section 10 or not to be excluded from total income under the provisions of clause (d) of sub-section (1) of section 13; or

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- (d) any income which is deemed to be income under the twenty-first proviso to clause (23C) of section 10 or which is not excluded from total income under clause (c) of subsection (1) of section 13; or
  - (e) any income applied outside India and which is not excluded from total income under clause (c) of sub-section (1) of section 11.
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**Verification of Investments:**

- a) The Assessing Officer may examine whether the trust or institution has invested its funds only in prescribed modes of investment or if there is any investment beyond these modes.
  - b) The Assessing Officer may examine whether trust or institutions have any investment in shares of a company which is not allowed as per section 11(5).
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### **30. BOOKS OF ACCOUNT BY THE NPOs**

30.1 Finance Act, 2022 has made it mandatory for the trust or institution to maintain the books of account where its total income exceeds the maximum amount which is not chargeable to income tax in any previous year. The trusts and institutions are also required to get their accounts audited by qualified accountant. Accordingly, the books of accounts and other documents required to be maintained by such trust or institution and the place where they are required to be maintained have been prescribed in rule 17AA of the Rules, which has been notified vide Notification No. 94/2022 (GSR 622 E) dated 10.08.2022 published in the Official Gazette. Now the NPOs are required to maintain the books of account on the following aspects:

- a) Cash book
- b) Ledger
- c) Journal
- d) Copies of bills, whether machine numbered or otherwise serially numbered, wherever such bills are issued by the trust or institution, and copies or counterfoils of machine numbered or otherwise serially numbered receipts issued by the trust or institution
- e) Original bills wherever issued to the person and receipts in respect of payments made by the person

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- f) Any other book that may be required to be maintained in order to give a true and fair view of the state of the affairs of the person and explain the transactions effected
  - g) Books of account for a business undertaking referred in sub-section (4) of section 11 of the Act
  - h) Books of account for business carried on by the trust or institution other than the business undertaking referred to in sub-section (4) of section 11 of the Act
  - i) Record of all the projects and institutions run by the person containing details of their name, address, and objectives
  - j) Record of income of the person during the previous year as per rule 17AA(1)(d)(ii)
  - k) Record of application of income etc. out of income during the previous year as per rule 17AA(1)(d)(iii)
  - l) Record of application of income out of the income of any previous year preceding the current previous year as per rule 17AA(1)(d)(iv)
  - m) Record of voluntary contribution made with a specific direction that they shall form part of the corpus, as per rule 17AA(1)(d)(v);
  - n) Record of contribution received for the purpose of renovation or repair of temple, mosque, gurdwara, church, or other place notified under clause (b) of sub-section (2) of section 80G which is being treated as corpus, as per rule 17AA(1)(d)(vi);
  - o) Record of loans and borrowings as per rule 17AA(1)(d)(vii)
  - p) Record of properties as per rule 17AA(1)(d)(viii);
  - q) Record of specified persons as per rule 17AA(1)(d)(ix);
  - r) Any other documents containing any other relevant information as per rule 17AA(1)(d)(x).

30.2 The trust or institution needs to maintain books of accounts as per the provisions of the 10th proviso to clause (23C) of section 10 and clause (b) of sub-section (1) of section 12A. With effect from AY 2023-24, if it does not maintain books of accounts as prescribed by rule 17AA, the exemption shall not be available and the income of the trust or institution has to be computed as per the 22nd and 23rd provisos to clause (23C) of section 10 and sub-section (10) and (11) of section 13 of the Act. **(Up to AY 2022-23 there was no specific provision under the Act providing for the maintenance of books of account)**

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## 31. RETURN OF INCOME

31.1 Trust or institutions are required to furnish their return of income in ITR-7. The ITR-7 has undergone major changes in the past few years to make compliance robust. Some of the key changes brought about in the ITR are as follows:

- (a) Schedule D and Schedule I have been revamped
- (b) Schedule J where the details of the corpus were to be provided has been simplified
- (c) A balance sheet has been introduced
- (d) Schedule R, a reconciliation of the balance sheet and Schedule J has been provided
- (e) The concept of administrative expenses has been removed
- (f) Schedule ER and EC have been clubbed into Schedule A
- (g) Part B-TI has been split into 3 parts: part 3 for section 13(10)

31.2 Vide Finance Act, 2022 provisions for mandatory ITR have been extended to the trust or institution registered under both regimes failing which the exemption shall not be available to the NPOs. With effect from AY 2023-24, if the trust or institution does not furnish a return of income within the due date, the exemption shall not be available and the income of the trust or institution has to be computed as per the 22nd and 23rd provisos to clause (23C) of section 10 and sub-section (10) and (11) of section 13 of the Act. **(Up to AY 2022-23 exemption could have been denied for not filing the return of income in time as per the provisions of clause (ba) of sub-section (1) of section 12A)**

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### Verification of ITR:

- a) ITR-7 has undergone certain changes in the AY 2022-23 and 2023-24 and the changes should be carefully gone through by the AO. The most critical fields in ITR-7 are summarised in **Annexure C**.
  - b) The most relevant schedules of the ITR-7 have been reproduced in **Annexure C** and the cause of their importance has also been mentioned in the Annexure.
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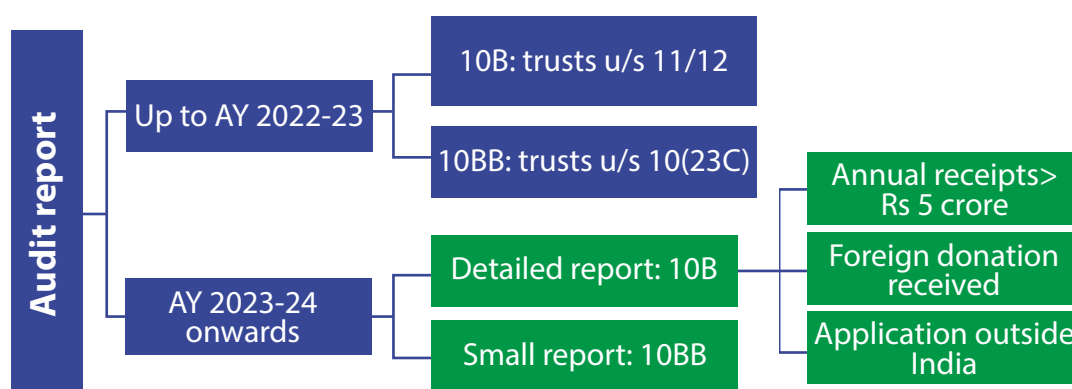
## 32. AUDIT

32.1 The audit report is required to be furnished by the NPOs. The audit reports have been strengthened for the NPOs. The detailed audit reports now contain the following details:

- a) All the trustees/settlors etc
- b) Beneficial owner information
- c) Books of account: whether maintained

- d) Business undertaking details
- e) Undertaking whether receipts on which TDS is deducted u/s 194C/J/H/Q are business receipts and incidental to the business
- f) Reconciliation of the donations with the form 10BD
- g) Foreign remittance details
- h) Details of the payments (party-wise above Rs 50 lakhs) are required
- i) Bifurcation of the application in electronic and other modes is required
- j) Violations u/s 115BBI, 13(10) and specified violations are to be reported by the auditor
- k) Details of transactions with specified persons are required to be reported

32.2 With effect from AY 2023-24, if the trust or institution does not furnish an audit report within the due date, exemption shall not be available and the income of the trust or institution has to be computed as per the 22nd and 23rd provisos to clause (23C) of section 10 and sub-section (10) and (11) of section 13 of the Act. **(Up to AY 2022-23 exemption could have been denied for not filing the audit report in time as per the provisions of clause (b) of sub-section (1) of section 12A and 10th proviso to clause(23C) of section 10)**



### Verification of Audit Report:

- a) Form 10B and Form 10BB containing the audit report have been substantially amended wef AY 23-24. The most crucial rows of these reports are summarised in **Annexure D**.
- b) The most relevant schedules of the audit reports have been reproduced in **Annexure D** and the cause of their importance has also been mentioned in the Annexure.

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### **33. PENALTY FOR PASSING ON UNREASONABLE BENEFITS TO TRUSTEE OR SPECIFIED PERSONS**

33.1 NPOs are mandated not to pass on any unreasonable benefit to the trustee or any other specified person. These specified persons are as follows:

- (a) the author of the trust or the founder of the institution;
- (b) any person who has made a substantial contribution to the trust or institution, that is to say, any person whose total contribution up to the end of the relevant previous year exceeds fifty thousand rupees;
- (c) where such author, founder, or person is a Hindu undivided family, a member of the family;
- (d) any trustee of the trust or manager (by whatever name called) of the institution;
- (e) any relative of any such author, founder, person, member, trustee, or manager as aforesaid;
- (f) any concern in which any of the persons referred to in clauses (a), (b), (c), (d) and (e) has a substantial interest.

33.2 In order to discourage such misuse of the funds of the trust or institution by specified persons, the Finance Act 2022 has inserted new sections 115BBI and 271AAE. Section 115BBI makes the amount of benefit, passed on to the specified person, taxable in the hands of the trust or institution. Section 271AAE provides for a penalty on trust or institution that is equal to the amount of income applied for the benefit of a specified person, where the violation is noticed for the first time during any previous year and twice the amount of such income, where the violation is noticed again in any subsequent year. Both these provisions put together will help curb the diversion of the funds by the NPOs to related persons which is one of the biggest modus for TF abuse by the NPOs.

33.3 The provisions in this regard are as follows:-

- a) As per the provisions of clause (a) and (b) of sub-section (2) of section 13, the income of the trust or institution shall be deemed to have been applied for the benefits of specified persons if any part of the income or property of the trust or institution is, or continues to be, lent to any person referred to in sub-section (3) for any period during the previous year without either adequate security or adequate interest or both or if any land, building or other property of the trust or institutions is, or continues to be, made available for the use of any person referred to in sub-section (3), for any period during the previous year without charging adequate rent or other compensation.

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- b) As per the provisions of clause (c) of sub-section (2) of section 13, the income of the trust shall be deemed to have been applied for the benefits of specified persons if any amount is paid by way of salary, allowance or otherwise during the previous year to any person referred to in sub-section (3) out of the resources of the trust or institution for services rendered by that person to such trust or institution and the amount so paid is in excess of what may be reasonably paid for such services.
  - c) As per the provisions of clause (d) of sub-section (2) of section 13, the income of the trust shall be deemed to have been applied for the benefits of specified persons if the services of the trust or institution are made available to any person referred to in sub-section (3) during the previous year without adequate remuneration or other compensation.
  - d) As per the provisions of clause (e) of sub-section (2) of section 13, the income of the trust shall be deemed to have been applied for the benefits of specified persons if any share, security, or other property is purchased by or on behalf of the trust or institution from any person referred to in subsection (3) during the previous year for consideration which is more than adequate.
  - e) As per the provisions of clause (f) of sub-section (2) of section 13, the income of the trust shall be deemed to have been applied for the benefits of specified persons if any share, security, or other property is sold by or on behalf of the trust or institution to any person referred to in sub-section(3) during the previous year for consideration which is less than adequate.
  - f) As per the provisions of clause (h) of sub-section (2) of section 13, the income of the trust shall be deemed to have been applied for the benefits of specified persons if any funds of the trust or institution are, or continue to remain, invested for any period during the previous year in any concern in which any person referred to in sub-section (3) has a substantial interest.

33.4 Finance Act, 2022, with effect from AY 2023-24, has inserted the 21st proviso in clause (23C) of section 10 of the Act to provide that where the income of any trust or institution under the first regime has been applied directly or indirectly for the benefit of any person referred to in sub-section (3) of section 13, such income or part of income or property shall be deemed to be the income of such trust or institution under the first regime of the previous year in which it is so applied.

33.5 Finance Act 2022, with effect from AY 2023-24, has also inserted new section 115BBI in the Act to provide that 30% tax shall be payable on any income which is deemed to be income under the 21st proviso to clause (23C) of section 10 or which is not excluded from total



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income under clause (c) of subsection (1) of section 13. **[Upto AY 2022-23 exemption is not allowed in such cases as per the provisions of section 13(1)(c)].**

- 33.6 In order to discourage such misuse of the funds of the trust or institution by specified persons, Finance Act, 2022 has also inserted, with effect from AY 2023-24, a new section 271AAE in the Act to provide for penalty on trusts or institutions under both the regimes which is equal to amount of income applied by such trust or institution for the benefit of specified person where the violation is noticed for the first time during any previous year and twice the amount of such income where the violation is noticed again in any subsequent year. It has also been provided that section 271AAE shall operate without prejudice to any other provision of Chapter XXI. Thus, if any penalty is leviable under any of the other provisions of Chapter XXI, in addition to the penalty under section 271AAE, that penalty would also be applicable.
- 33.7 Section 271AAE provides that if during any proceeding under the Act, it is found that a person, being any trust or institution under the first or the second regime, has violated the provisions of the 21st proviso to clause (23C) of section 10 (inserted by the FA 2022) or clause (c) of sub-section (1) of section 13, as the case may be, the Assessing Officer may direct that such person shall pay by way of penalty,
- (i) a sum equal to the aggregate amount of income applied, directly or indirectly, by such person, for the benefit of any person referred to in sub-section (3) of section 13, where the violation is noticed for the first time during any previous year; and
  - (ii) a sum equal to two hundred percent of the aggregate amount of income of such person applied, directly or indirectly, by such person, for the benefit of any person referred to in sub-section (3) of section 13, where the violation is noticed again in any subsequent previous year.

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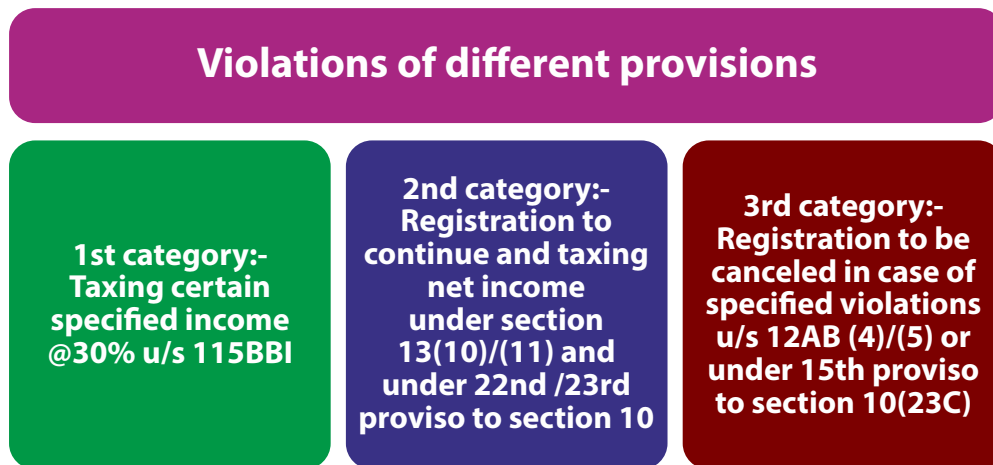
**Verification of transactions with specified persons:**

- a) The Assessing Officer may examine whether a transaction with a specified person has been reported by the auditor in Form 10B/10BB. In the case of such a reported transaction, the reasonableness of the consideration needs to be verified.
- b) The Assessing Officer may examine whether all the transactions with specified persons have been reported by the auditor. In some cases, advances or security deposits are given by trust or institution to the specified persons which are not reported in Form 10B or 10BB. A careful scrutiny of the balance sheet and Income and expenditure account may reveal such transactions.

- c) The Assessing Officer may examine whether the trust or institution has entered into a transaction with the entities in which trustees, authors, etc. have a substantial interest. At times list of such entities may not be readily available with the AO. Information available on the website of the Ministry of Corporate Affairs etc. may help the AO in tracing such entities.
- d) The violations of this section should be reported to the PCIT/CIT as per the provisions of section 12AB(4).

## 34. VIOLATIONS BY THE NPOs

34.1 There has been a complete revamp of the provisions related to different violations by the NPOs. The following chart summarizes the provisions related to violations by the NPOs.



### 34.2 1st category

34.2.1 With effect from AY 2023-24, in case of these violations, the amount of violation is taxable @30%. The violations that fall in this category are as follows:

- a) Accumulation without Form 10/9A
- b) Violations wrt accumulated income: Explanation 4 to 3rd proviso to clause (23C) of section 10 and section 11(3) and 11(1B)
- c) Income invested in modes other than 11(5) modes [3rd proviso to clause (23C) of section 10 and section 13(1)(d)]
- d) Benefits to specified persons [21st proviso to clause (23C) of section 10 and section 13(1)(c)]
- e) Application outside India without Board approval [section 11(1)(c)]

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### **34.3 2nd category**

34.3.1 With effect from AY 2023-24, where the taxable income of the trust is required to be computed as per the provisions of 22nd and 23rd provisos to clause (23C) of section 10 and sub-section (10) and (11) of section 13 of the Act. In the following cases:-

- (a) if the trust or institution does not maintain books of accounts as prescribed by rule 17AA
- (b) Return of income has not been furnished within time
- (c) Tax audit report not submitted within time
- (d) Commercial activities are carried out by the trust or institution and proviso to clause (15) of section 2 of the Act is applicable.

34.3.2 In such cases, the income of the trust or institution is to be computed on a net basis as follows:-

- a) Revenue expenses are allowed
- b) Expenses should be in India
- c) Expenses should be for the objects of the trust or institution
- d) Expenditure should not be from corpus as of 31st March of the previous year
- e) Expenditure should not be from loans and borrowings
- f) Depreciation on assets not allowed if the cost of asset claimed as application
- g) Expenditure should not be donations to other persons
- h) Section 40A(3)/(3A)/40(a)(ia) shall apply
- i) no deduction in respect of any expenditure or allowance or set-off of any loss shall be allowed

### **34.4 3rd category**

34.4.1 With effect from 01.04.2022, in case of the most severe violations, the registration of the NPO is canceled. The violations that make any trust or institution fall into this category are as follows:

- a) Application beyond objects
- b) Non-incident business/non maintenance of books of incidental business
- c) Application for private religious purpose

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- d) Benefits to particular religious community or caste
  - e) Ingenuine activity/violation of conditions for registration
  - f) Violation of other laws
  - g) Incomplete, false, or incorrect application

34.4.2 These verifications may take place in the following 3 different ways:

- (a) Suo moto
- (b) Reference made by the AO
- (c) Risk Management Strategy

34.4.3 The procedure for handling these violations is as follows:

- a) PCIT/CIT has the right to carry out enquiries
- b) PCIT/CIT has the right to cancel or refuse to cancel the registration
- c) Section 115TD is applicable to the charitable institutions u/s 10(23C)(iv)/(v)/(vi)/(via) as well.

34.5 In order to ensure time-bound disposals of these matters, the PCIT/CIT are required to dispose of these cases within 6 months from the end of the quarter in which the first notice is issued.

34.6 Where the PCIT/CIT has canceled the registration it is also to be examined whether the trust or institution has correctly reported the accreted income as per the provisions of section 115TD and paid tax at the maximum marginal rate. Further, it needs to be verified whether the trust or institution has claimed exemption u/s 11/12/10(23C) for the assessment year.

34.7 Chapter XII-EB containing section 115TD was introduced by the Finance Act, 2016. It provides for the taxation of accreted income of the trust in certain cases. A society a company a trust or an institution carrying on charitable activity may voluntarily wind up its activities and dissolve or may also merge with any other charitable or non-charitable institution, or it may convert into a non-charitable organization. In order to ensure that the intended purpose of exemption availed by trust or institution is achieved, a specific provision in the Act was brought about for imposing a levy in the nature of an exit tax which is attracted when the organization is converted into a non-charitable organization or gets merged with a non-charitable organization or a charitable organization with dissimilar objects or does not

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transfer the assets to another charitable organization. Accordingly, a new Chapter XII-EB consisting of Sections 115TD, 115TE, and 115TF was inserted in the Act.

34.7.1 The provisions of Chapter XII-EB were applicable to only the trusts and institutions registered u/s 12AB of the Act. The provisions have been made applicable to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or (v) or (vi) or (via) of clause (23C) of section 10 of the Act by the Finance Act, 2022.

34.8 Effects of cancellation of the registration:

- a) The provisions of section 115TD, TE and TF applicable to the charitable institutions u/s 10(23C)(iv)/(v)/(vi)/(via) as well w.e.f. 01.04.23.
- b) Section 115TD applies where:
  - i. Registration of the trust or institution is canceled or it is converted into ineligible form
  - ii. Merged with the entity having different objects
  - iii. Failed to transfer all its assets upon dissolution all its assets
- c) Accreted value of the assets is required to be taxed which is the fair market value of all the assets as reduced by the liabilities
- d) Provisions of section 115TD have also been made applicable in case of any trust or institution not making the application for regular registration within time.

## IMPORTANT CIRCULAR ISSUED BY CBDT IN THE RECENT PAST

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### 35. RELIEFS FOR THE CHARITABLE TRUSTS OR INSTITUTIONS BY THE CIRCULAR 6/2023 DATED 24.05.2023

#### 1. Extension of the due date of Form 10A

The due date of making an application in Form No 10A, in case of an application under clause (i) of the first proviso to clause (23C) of section 10 or under sub-clause (i) of clause (ac) of sub-section (1) of section 12A or under clause (i) of the first proviso to sub-section (5) of section 80G of the Act, has been extended till 30.09.2023 where the due date for making such application has expired prior to such date.

#### 2. Extension of the due date of form 10AB (only in certain cases)

The due date of making an application in Form No 10AB, in case of an application under clause (iii) of the first proviso to clause (23C) of section 10 or under sub-clause (iii) of clause (ac) of sub-section (1) of section 12A of the Act, has been extended till 30.09.2023 where the due date for making such application has expired prior to such date. It may be kept in mind that the due date for making an application for regularization of provisional registration u/s 80G has not been extended.

#### 3. Relief from the applicability of section 115TD

In view of the above, trusts may now apply for registration/approval under clause (i) or clause (iii) of the first proviso to clause (23C) of section 10 or sub-clause (i) or sub-clause (iii) of clause (ac) of sub-section (1) of section 12A of the Act by 30.09.2023 and where such application is made by the said date and registration/approval is granted, the provisions of clause (iii) of sub-section (3) of section 115TD of the Act shall not apply on account of delay in making application in accordance with the provisions of clause (i) or (iii) of the first proviso to clause (23C) of section 10 or sub-clause (i) or (iii) of clause (ac) of sub-section (1) of section 12A of the Act.

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#### **4. Clarification with respect to pending applications**

The extension of the due date shall also apply in case of all pending applications under clause (iii) of the first proviso to clause (23C) of section 10 or sub-clause (iii) of clause (ac) of sub-section (1) of section 12A of the Act, as the case may be. Hence, in cases where the trust has already made an application in Form No. 10AB under the said provisions but has been furnished after 30.09.2022 and where the Principal Commissioner or Commissioner has not passed an order before the issuance of this Circular, the pending application in Form No 10AB may be treated as a valid application.

#### **5. Fresh applications where earlier applications were rejected**

Further, in cases where the trust had already made an application in Form No. 10AB, and where the Principal Commissioner or Commissioner has passed an order rejecting such application, on or before the date of issuance of this Circular, solely on account of the fact that the application was furnished after the due date, the trust may furnish a fresh application in Form No. 10AB within the extended time provided in paragraph 5(ii) of the said Circular i.e. 30.09.2023.

#### **6. Surrender of provisional registration for regular registration**

It is also clarified that where trusts have missed the deadline of 25.11.2022, as mentioned in para 1(a) of the said Circular, for making an application for registration/ approval in Form No. 10A, and have subsequently furnished Form No 10A seeking provisional registration/approval, the relevant functionality on the e-filing portal may be used for surrendering the Form No 10A seeking provisional registration/approval and such trusts can make a new application in Form No. 10A for registration/ approval within the extended period up to 30.09.2023, as mentioned in paragraph 5(i) of the said Circular.

#### **7. Extension of due date for furnishing of Form No. 10BD.**

In view of extension provided to funds or institutions seeking approval under sub-section (5) of section 80G of the Act, as discussed in paragraph 5(i) of the said Circular, in the exercise of the power under section 119 of the Act, the Board also extends the due date for furnishing of statement of donation in Form No. 10BD and the certificate of donation in Form No. 10BE in respect of the donations received during the financial year 2022-23 to 30.06.2023.

#### **8. Applicability of provisional registration/approval w.e.f from the financial year in which the application is made**

In case of trusts, funds, or institutions seeking provisional approval or provisional registration

as referred to in para 10 and 11 of the said Circular, the said provisional approval or provisional registration shall be effective from the assessment year relevant to the previous year in which the application is made and shall be valid for a period of three assessment years subject to the provisions of clause (iii) of the first proviso to clause (23C) of section 10 or in sub-clause (iii) clause (ac) of sub-section (1) of section 12A or clause (iii) of the first proviso to sub-section (5) of section 80G of the Act, as the case may be.

**9. Form 10/9A may be filed by the due date of the furnishing return**

Statement of accumulation in Form No. 10 and 9A is required to be furnished at least two months prior to the due date of furnishing the return of income so that it may be taken into account while auditing the books of account. However, the accumulation/deemed application shall not be denied to a trust as long as the statement of accumulation/deemed application is furnished on or before the due date of furnishing the return as provided in subsection (1) of section 139 of the Act.

**10. Clarification wrt form 10B/10BB**

For the purposes of Form No. 10B and Form No. 10BB electronic modes referred to in para 18 are in addition to the account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account.

**36. OTHER CIRCULARS**

Reference of Circular	Subject Matter	Summary of the Circular
Circular 17/2023 dated 09th October 2023	Relaxation of certain requirements of audit report in form 10B/10BB	<p>For the purposes of providing details in (i) Form No. 10B in the Annexure, in row 41; and (ii) Form No. 10BB in the Annexure, in row 28, for the assessment year 2023-24:</p> <p>(a) the aforesaid details (that is, of persons making substantial contributions) may be given with respect to those persons whose total contribution during the previous year exceeds fifty thousand rupees;</p> <p>(b) details of relatives of such person, as referred to in (a) above may be provided, if available. (c) details of concerns in which such person, as referred to in (a) above, has substantial interest may be provided, if available.</p>



Reference of Circular	Subject Matter	Summary of the Circular
Circular 16/2023 dated 18th September, 2023	Extension of the due date for audit and ITR	<ol style="list-style-type: none"> <li>1. The due date of furnishing the Audit report under clause (b) of the tenth proviso to clause (23C) of section 10 and sub-clause (ii) of clause (b) of sub-section (1) of section 12A of the Act, in the case of a fund or trust or institution or any university or other educational institution or any hospital or other medical institution in Form 10B/Form 10BB for the Previous Year 2022-23, which is 30th September 2023, was extended to 31st October 2023.</li> <li>2. The due date of furnishing of Return of Income in Form ITR-7 for the Assessment Year 23-24 in the case of trust or institutions referred to in clause (a) of Explanation 2 to sub-section (1) of section 139 of the Act, which is 31st October 2023, was extended to 30th November 2023.</li> </ol>
Circular 11/2022 dated 3rd June, 2022	Relaxation of the conditions of registration And clarifications regarding provisional registration	<p><b>Relaxation of the conditions of registration</b></p> <p>The conditions contained in Form No. 10AC, issued between 01.04.2021 and the date of issuance of this Circular, shall be read as if the said conditions had been substituted with the conditions as provided in Table 1 of the Circular with effect from 1st April 2022. For example, in case of orders passed under clause (a) of sub-section (1) of section 12AB (reregistration), the conditions shall be as follows:</p> <ol style="list-style-type: none"> <li>1. Any income derived from property held under trust, wholly or in part for charitable or religious purposes, shall not be applied, other than for the objects of the trust or institution.</li> <li>2. The trust or institution shall not have income from profits and gains of business which is not incidental to the attainment of its objectives.</li> </ol>

Reference of Circular	Subject Matter	Summary of the Circular
		<ol style="list-style-type: none"> <li>3. Separate books of account shall be maintained by such trust or institution in respect of the business which is incidental to the attainment of its objectives.</li> <li>4. The trust or institution shall not apply any part of its income from the property held under a trust for private religious purposes, which does not ensure the benefit of the public.</li> <li>5. The trust or institution established for charitable purposes created or established after the commencement of this Act, shall not apply any part of its income for the benefit of any particular religious community or caste.</li> <li>6. No non-genuine activity shall be carried out by the trust or institution.</li> <li>7. No such activity shall be carried on by the trust or institution that is not in accordance with all or any of the conditions subject to which it was registered.</li> <li>8. The trust or institution shall comply with the requirement of any other law, as referred to in item (B) of sub-clause (i) of clause (b) of sub-section (1) of section 12AB.</li> <li>9. The form for registration in Form No 10A has been duly filled in by providing all the information or documents and no false or incorrect information or documents have been provided.</li> <li>10. Where the trust or institution is required to furnish an application for registration under sub-clause (ii) of clause (ac) of sub-section (1) of section 12A the said trust or institution shall furnish such application within the time allowed under that clause.</li> </ol>

Reference of Circular	Subject Matter	Summary of the Circular
		<p>11. Where the trust or institution has adopted or undertaken modifications of the objects that do not conform to the conditions of registration, the trust or institution shall make an application in the prescribed form and manner to the Principal Commissioner or Commissioner, for registration of the trust or institution, within a period of thirty days from the date of the said adoption or modification.</p> <p><b>Clarifications regarding provisional registration</b></p> <p>where due to technical glitches, Form No. 10AC was issued during FY 2021- 2022 with the heading “Order for provisional registration” or “ Order for provisional approval” instead of “Order for registration” or “ Order for approval”, then all such Form No. 10AC shall be considered as an “Order for registration or approval” and, in such cases where Form No. 10AC has been issued, -</p>

## ANNEXURE-A

### DATA AS AVAILABLE WITH CHARITY COMMISSIONERS

Sl No.	Name of State	State Trust Act	PAN availability	Documents required for registration of Trust	Regis-tration	Online access	Source
1	Andhra Pradesh	Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust Registration</li> <li>2. Application Form</li> <li>3. Two passport-size photographs of Trustees</li> <li>4. Self-attested copy of PAN and ID proof of Trustees</li> <li>5. Proof of registered office address</li> <li>6. NOC from the landowner with his identity proof (Rented office )</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> <li>9. Court fee stamp of Rs. as per state affixed to the application form</li> </ol>	Offline	No	<a href="https://www.wiki.procedure.com/index.php/Andhra_Pradesh_-_Register_a_Charity">https://www.wiki.procedure.com/index.php/Andhra_Pradesh_-_Register_a_Charity</a>
2	Arunachal Pradesh	No Separate Trust Act	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust Registration</li> <li>2. Application Form</li> <li>3. Two passport size photographs of the Trustees</li> <li>4. Self-attested copy of PAN and ID proof of Trustees</li> <li>5. Proof of registered office address</li> <li>6. NOC from the landowner with his identity proof ( Rented office )</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> <li>9. Court fee stamp of Rs. as per state affixed to the application form</li> </ol>	Offline	No	<a href="https://www.wiki.procedure.com/index.php/Arunachal_Pradesh_-_Register_a_Charity">https://www.wiki.procedure.com/index.php/Arunachal_Pradesh_-_Register_a_Charity</a>

SI No.	Name of State	State Trust Act	PAN availability	Documents required for registration of Trust	Regis-tration	Online access	Source
3	Assam	No Separate Trust Act	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust Registration</li> <li>2. Application Form</li> <li>3. Two passport size photographs of the Trustees</li> <li>4. Self-attested copy of PAN and ID proof of Trustees</li> <li>5. Proof of registered office address</li> <li>6. NOC from the landowner with his identity proof ( Rented office )</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> <li>9. Court fee stamp of Rs. as per state affixed to the application form</li> </ol>	Offline	No	<a href="https://www.wiki.procedure.com/index.php/Assam_-_Register_a_Charity">https://www.wiki.procedure.com/index.php/Assam_-_Register_a_Charity</a>
4	Bihar	Bihar Hindu Religious Trusts Act, 1950	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust Registration</li> <li>2. Application Form</li> <li>3. Two passport size photographs of the Trustees</li> <li>4. Self-attested copy of PAN and ID proof of Trustees</li> <li>5. Proof of registered office address</li> <li>6. NOC from the landowner with his identity proof ( Rented office )</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> <li>9. Court fee stamp of Rs. as per state affixed to the application form</li> </ol>	Offline	No	<a href="https://www.wiki.procedure.com/index.php/Bihar_-_Register_a_Charity">https://www.wiki.procedure.com/index.php/Bihar_-_Register_a_Charity</a>

SI No.	Name of State	State Trust Act	PAN availability	Documents required for registration of Trust	Regis-tration	Online access	Source
5	Chhattisgarh	No Separate Trust Act	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust Registration</li> <li>2. Application Form</li> <li>3. Two passport size photographs of the Trustees</li> <li>4. Self-attested copy of PAN and ID proof of Trustees</li> <li>5. Proof of registered office address</li> <li>6. NOC from the landowner with his identity proof ( Rented office )</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> <li>9. Court fee stamp of Rs. as per state affixed to the application form</li> </ol>	Offline	No	<a href="https://www.wiki-procedure.com/index.php/Chhattisgarh_-_Register_a_Charity">https://www.wiki-procedure.com/index.php/Chhattisgarh_-_Register_a_Charity</a>
6	Delhi	No Separate Trust Act	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust Registration</li> <li>2. Application Form</li> <li>3. Two passport size photographs of the Trustees</li> <li>4. Self-attested copy of registered address and ID proof of Trustees</li> <li>5. Proof of registered office address</li> <li>6. NOC from the landowner with his identity proof ( Rented office )</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> </ol>	Offline	No	<a href="https://www.estartindia.com/knowledge-hub/blog/NPO-registration-trust-society-in-delhi-up">https://www.estartindia.com/knowledge-hub/blog/NPO-registration-trust-society-in-delhi-up</a>

SI No.	Name of State	State Trust Act	PAN availability	Documents required for registration of Trust	Regis- tration	Online access	Source
7	Goa	No Separate Trust Act	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust Registration</li> <li>2. Application Form</li> <li>3. Two passport size photographs of the Trustees</li> <li>4. Self-attested copy of PAN and ID proof of Trustees</li> <li>5. Proof of registered office address</li> <li>6. NOC from the landowner with his identity proof ( Rented office )</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> <li>9. Court fee stamp as applicable affixed to the application form</li> </ol>	Offline	No	<a href="https://www.wiki.procedure.com/index.php/Goa_-_Register_a_Charity">https://www.wiki.procedure.com/index.php/Goa_-_Register_a_Charity</a>
8	Gujarat	Gujarat Public Trusts Act,2011	Not Mandatory	<ol style="list-style-type: none"> <li>1. Request a letter to register a society.</li> <li>2. Two copies of MoA including a List of the Proposed governing bodies and</li> <li>3. Two sets of Rules and regulations framed for the functioning of the</li> <li>4. Affidavits (on Rs.10/- stamp paper from the President/Secretary Society regarding the name/title of the society.)</li> <li>5. Copy of Residence proof of all members.</li> <li>6. Proof of ownership of the registered office of the society &amp; no</li> <li>7. Copy of proof of identification of all society.</li> </ol>	Offline	No	<a href="https://www.wiki.procedure.com/index.php/Gujarat_-_Register_a_Charity">https://www.wiki.procedure.com/index.php/Gujarat_-_Register_a_Charity</a>

SI No.	Name of State	State Trust Act	PAN availability	Documents required for registration of Trust	Registration	Online access	Source
9	Haryana	No Separate Trust Act	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust Registration</li> <li>2. Application Form</li> <li>3. Two passport size photographs of the Trustees</li> <li>4. Self-attested copy of PAN and ID proof of Trustees</li> <li>5. Proof of registered office address</li> <li>6. NOC from the landowner with his identity proof ( Rented office )</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> <li>9. Court fee stamp as applicable affixed to the application form</li> </ol>	Offline	No	<a href="https://www.wiki.procedure.com/index.php/Haryana_-_Register_a_Charity">https://www.wiki.procedure.com/index.php/Haryana_-_Register_a_Charity</a>
10	Himachal Pradesh	The Himachal Pradesh Hindu Public Religious Institutions and Charitable Endowments Act, 1984	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust Registration</li> <li>2. Application Form</li> <li>3. Two passport size photographs of the Trustees</li> <li>4. Self-attested copy of PAN and ID proof of Trustees</li> <li>5. Proof of registered office address</li> <li>6. NOC from the landowner with his identity proof ( Rented office )</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> <li>9. Court fee stamp as applicable affixed to the application form</li> </ol>	Offline	No	<a href="https://www.wiki.procedure.com/index.php?title=Himachal_Pradesh_-_Register_a_Charity">https://www.wiki.procedure.com/index.php?title=Himachal_Pradesh_-_Register_a_Charity</a>



Sl No.	Name of State	State Trust Act	PAN availability	Documents required for registration of Trust	Regis-tration	Online access	Source
11	Jharkhand	No Separate Trust Act	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust Registration</li> <li>2. Application Form</li> <li>3. Two passport size photographs of the Trustees</li> <li>4. Self-attested copy of PAN and ID proof of Trustees</li> <li>5. Proof of registered office address</li> <li>6. NOC from the landowner with his identity proof ( Rented office )</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> <li>9. Court fee stamp as applicable affixed to the application form</li> </ol>	Offline	No	<a href="https://www.wiki.procedure.com/index.php/Jharkhand_-_Register_a_Charity">https://www.wiki.procedure.com/index.php/Jharkhand_-_Register_a_Charity</a>
12	Karnataka	Karnataka Hindu Religious Institutions and Charitable Endowments Act, 1997	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust Registration</li> <li>2. Application Form</li> <li>3. Two passport size photographs of the Trustees</li> <li>4. Self-attested copy of PAN and ID proof of Trustees</li> <li>5. Proof of registered office address</li> <li>6. NOC from the landowner with his identity proof ( Rented office )</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> <li>9. Court fee stamp as applicable affixed to the application form</li> </ol>	Offline	No	<a href="https://www.wiki.procedure.com/index.php/Karnataka_-_Register_a_Charity">https://www.wiki.procedure.com/index.php/Karnataka_-_Register_a_Charity</a>

SI No.	Name of State	State Trust Act	PAN availability	Documents required for registration of Trust	Regis- tration	Online access	Source
13	Kerala	Travancore -Cochin Hindu Religious Institutions Act, 1950	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust Registration</li> <li>2. Application Form</li> <li>3. Two passport size photographs of the Trustees</li> <li>4. Self-attested copy of PAN and ID proof of Trustees</li> <li>5. Proof of registered office address</li> <li>6. NOC from the landowner with his identity proof ( Rented office )</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> <li>9. Court fee stamp as applicable affixed to the application form</li> </ol>	Offline	No	<a href="https://www.wiki.procedure.com/index.php/Kerala_-_Register_a_Charity">https://www.wiki.procedure.com/index.php/Kerala_-_Register_a_Charity</a>
14	Madhya Pradesh	Madhya Pradesh Public Trusts Act, 1951	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust Registration</li> <li>2. Application Form</li> <li>3. Two passport size photographs of the Trustees</li> <li>4. Self-attested copy of PAN and ID proof of Trustees</li> <li>5. Proof of registered office address</li> <li>6. NOC from the landowner with his identity proof ( Rented office )</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> <li>9. Court fee stamp as applicable affixed to the application form</li> </ol>	Offline	No	<a href="https://www.wiki.procedure.com/index.php/Madhya_Pradesh_-_Register_a_Charity">https://www.wiki.procedure.com/index.php/Madhya_Pradesh_-_Register_a_Charity</a>

SI No.	Name of State	State Trust Act	PAN availability	Documents required for registration of Trust	Registration	Online access	Source
15	Maharashtra	The Maharashtra Public Trusts Act, 1950	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust registration to the Official having Jurisdiction</li> <li>2. Application Form</li> <li>3. Two passport size photographs of Trustees</li> <li>4. Self-attested copy of PAN and ID proof of Trustees</li> <li>5. Proof of registered office address</li> <li>6. NOC from the landowner with his identity proof ( Rented office )</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> <li>9. Court fee stamp as applicable affixed to the application form</li> </ol>	Offline	No	<a href="https://www.wiki.procedure.com/index.php/Maharashtra_-_Register_a_Charity">https://www.wiki.procedure.com/index.php/Maharashtra_-_Register_a_Charity</a>
16	Manipur	The Manipur Societies Registration Act, 1989	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust Registration</li> <li>2. Application Form</li> <li>3. Two passport size photographs of the Trustees</li> <li>4. Self-attested copy of PAN and ID proof of Trustees</li> <li>5. Proof of registered office address</li> <li>6. NOC from the landowner with his identity proof ( Rented office )</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> <li>9. Court fee stamp as applicable affixed to the application form</li> </ol>	Offline	No	<a href="https://www.wiki.procedure.com/index.php/Manipur_-_Register_a_Charity">https://www.wiki.procedure.com/index.php/Manipur_-_Register_a_Charity</a>

Sl No.	Name of State	State Trust Act	PAN availability	Documents required for registration of Trust	Registration	Online access	Source
17	Meghalaya	Meghalaya Societies Registration Act, 1983	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust registration to the Official having Jurisdiction</li> <li>2. Application Form</li> <li>3. Two passport size photographs of Trustees</li> <li>4. Self-attested copy of PAN and ID proof of Trustees</li> <li>5. Proof of registered office address</li> <li>6. NOC from the landowner with his identity proof ( Rented office )</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> <li>9. Court fee stamp as applicable affixed to the application form</li> </ol>	Offline	No	<a href="https://www.wiki.procedure.com/index.php/Meghalaya_-_Register_a_Charity">https://www.wiki.procedure.com/index.php/Meghalaya_-_Register_a_Charity</a>
18	Mizoram	The Mizoram Societies Registration Act, 200	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust Registration</li> <li>2. Application Form</li> <li>3. Two passport size photographs of the Trustees</li> <li>4. Self-attested copy of PAN and ID proof of Trustees</li> <li>5. Proof of registered office address</li> <li>6. NOC from the landowner with his identity proof ( Rented office )</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> <li>9. Court fee stamp as applicable affixed to the application form</li> </ol>	Offline	No	<a href="https://www.wiki.procedure.com/index.php/Mizoram_-_Register_a_Charity">https://www.wiki.procedure.com/index.php/Mizoram_-_Register_a_Charity</a>

Sl No.	Name of State	State Trust Act	PAN availability	Documents required for registration of Trust	Registration	Online access	Source
19	Nagaland	No Separate Trust Act	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust registration to the Official having Jurisdiction</li> <li>2. Application Form</li> <li>3. Two passport size photographs of Trustees</li> <li>4. Self-attested copy of PAN and ID proof of Trustees</li> <li>5. Proof of registered office address</li> <li>6. NOC from the landowner with his identity proof ( Rented office )</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> <li>9. Court fee stamp as applicable affixed to the application form</li> </ol>	Offline	No	<a href="https://www.wiki.procedure.com/index.php/Nagaland_-_Register_a_Charity">https://www.wiki.procedure.com/index.php/Nagaland_-_Register_a_Charity</a>
20	Odisha	Orissa Hindu Religious Endowments Act, 1951	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust Registration</li> <li>2. Application Form</li> <li>3. Two passport size photographs of the Trustees</li> <li>4. Self-attested copy of PAN and ID proof of Trustees</li> <li>5. Proof of registered office address</li> <li>6. NOC from the landowner with his identity proof ( Rented office )</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> <li>9. Court fee stamp as applicable affixed to the application form</li> </ol>	Offline	No	<a href="https://www.wiki.procedure.com/index.php/Odisha_-_Register_a_Charity">https://www.wiki.procedure.com/index.php/Odisha_-_Register_a_Charity</a>

SI No.	Name of State	State Trust Act	PAN availability	Documents required for registration of Trust	Registration	Online access	Source
21	Punjab	The Punjab Trust Act, 2020	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust registration to the Official having Jurisdiction</li> <li>2. Application Form</li> <li>3. Two passport size photographs of Trustees</li> <li>4. Self-attested copy of PAN and ID proof of Trustees</li> <li>5. Proof of registered office address</li> <li>6. NOC from the landowner with his identity proof ( Rented office )</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> <li>9. Court fee stamp as applicable affixed to the application form</li> </ol>	Offline	No	<a href="https://www.wiki-procedure.com/index.php/Punjab_-_Register_a_Charity">https://www.wiki-procedure.com/index.php/Punjab_-_Register_a_Charity</a>
22	Rajasthan	Rajasthan Public Trust Act, 1959	Not Mandatory	<ol style="list-style-type: none"> <li>1. Aadhar Card and PAN card Copy of Settler</li> <li>2. Aadhar Card and PAN card Copy of Trustees</li> <li>3. Electricity Bill of Office of Trust</li> <li>4. Rent Agreement of office of Trust in any</li> <li>5. Photo of Settler</li> <li>6. Photo of Trustees</li> </ol>	Offline	No	<a href="https://devasthan.rajasthan.gov.in/Files/RPT_Act_1959_Eng.pdf">https://devasthan.rajasthan.gov.in/Files/RPT_Act_1959_Eng.pdf</a> & <a href="https://www.india-code.nic.in/handle/123456789/18510?sam_handle=123456789/136">https://www.india-code.nic.in/handle/123456789/18510?sam_handle=123456789/136</a>

Sl No.	Name of State	State Trust Act	PAN availability	Documents required for registration of Trust	Registration	Online access	Source
23	Sikkim	No Separate Trust Act	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust registration to the Official having Jurisdiction</li> <li>2. Application Form</li> <li>3. Two passport-size photographs</li> <li>4. Self-attested copy of PAN and ID proof</li> <li>5. Proof of registered office address (Electricity Bill/Water bill etc)</li> <li>6. NOC from the landowner with his identity proof</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> <li>9. A court fee stamp of Rs.2 affixed to the application form</li> </ol>	Offline	No	<a href="https://www.wiki.procedure.com/index.php/Sikkim_-_Register_a_Charity">https://www.wiki.procedure.com/index.php/Sikkim_-_Register_a_Charity</a>
24	Tamil Nadu	Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 The Madras Hindu Religious And Charitable Endowments Act, 1951	Not Mandatory	<ol style="list-style-type: none"> <li>1. Trust deed</li> <li>2. ID &amp; address proof of Founder</li> <li>3. ID &amp; address proof of Trustees</li> <li>4. Address proof for office</li> <li>5. ID and address proof of witness</li> </ol>	Offline	No	<a href="https://www.indiacode.nic.in">https://www.indiacode.nic.in</a> <a href="http://www.bareactslive.com/https://www.tn.gov.in/service/dept/92543/3932">http://www.bareactslive.com/https://www.tn.gov.in/service/dept/92543/3932</a>

Sl No.	Name of State	State Trust Act	PAN availability	Documents required for registration of Trust	Registration	Online access	Source
25	Telangana	The Telangana Charitable and Hindu Religious Institutions and Endowments Act, 1987	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust registration to the Official having Jurisdiction</li> <li>2. Application Form</li> <li>3. Two passport-size photographs</li> <li>4. Self-attested copy of PAN and ID proof</li> <li>5. Proof of registered office address (Electricity Bill/Water bill etc)</li> <li>6. NOC from the landowner with his identity proof</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> <li>9. A court fee stamp of Rs.2 affixed to the application form</li> </ol>	Offline	No	<a href="https://www.wiki-procedure.com/index.php/Telangana_-_Register_a_Charity">https://www.wiki-procedure.com/index.php/Telangana_-_Register_a_Charity</a>
26	Tripura	Tripura Society Registration Act, 1860	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust registration to the Official having Jurisdiction</li> <li>2. Application Form</li> <li>3. Two passport-size photographs</li> <li>4. Self-attested copy of PAN and ID proof</li> <li>5. Proof of registered office address (Electricity Bill/Water bill etc)</li> <li>6. NOC from the landowner with his identity proof</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> <li>9. A court fee stamp of Rs.2 affixed to the application form</li> </ol>	Offline	No	<a href="https://www.wiki-procedure.com/index.php/Tripura_-_Register_a_Charity">https://www.wiki-procedure.com/index.php/Tripura_-_Register_a_Charity</a>



SI No.	Name of State	State Trust Act	PAN availability	Documents required for registration of Trust	Registration	Online access	Source
27	Uttar Pradesh	No Separate Trust Act	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust registration to the Official having Jurisdiction</li> <li>2. Application Form</li> <li>3. Two passport size photographs of the Trustees</li> <li>4. Self-attested copy of PAN and ID proof of Trustees</li> <li>5. Proof of registered office address</li> <li>6. NOC from the landowner with his identity proof ( Rented office )</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> <li>9. A court fee stamp of Rs.2 affixed to the application form</li> </ol>	Offline	No	<a href="https://www.wiki-procedure.com/index.php/Uttar_Pradesh_-_Register_a_Charity">https://www.wiki-procedure.com/index.php/Uttar_Pradesh_-_Register_a_Charity</a>
28	Uttarakhand	No Separate Trust Act	Not Mandatory	<ol style="list-style-type: none"> <li>1. Covering letter for Trust registration to the Official having Jurisdiction</li> <li>2. Application Form</li> <li>3. Two passport-size photographs</li> <li>4. Self-attested copy of PAN and ID proof</li> <li>5. Proof of registered office address (Electricity Bill/Water bill etc)</li> <li>6. NOC from the landowner with his identity proof</li> <li>7. Proof of property registered in the trusted name</li> <li>8. Certified copy of Trust deed Consent letter of Trustees</li> <li>9. A court fee stamp of Rs.2 affixed to the application form</li> </ol>	Offline	No	<a href="https://www.wiki-procedure.com/index.php/Uttarakhand_-_Register_a_Charity">https://www.wiki-procedure.com/index.php/Uttarakhand_-_Register_a_Charity</a>

SI No.	Name of State	State Trust Act	PAN availability	Documents required for registration of Trust	Registration	Online access	Source
29	West Bengal	No Separate Trust Act	Not Mandatory	<ol style="list-style-type: none"> <li>1. Trust Deed on Proper Stamp Value</li> <li>2. Two Photographs of Trustees</li> <li>3. PAN Card of each Trustee</li> <li>4. Identity Proof of each Trustee</li> <li>5. Address Proof of each Trustee</li> <li>6. Signed Declaration (s) from Trustee</li> </ol>	Offline	No	<a href="https://advocatechenoyceil.com/2020/06/01/how-to-register-charitable-trusts-in-west-bengal-and-kolkata/">https://advocatechenoyceil.com/2020/06/01/how-to-register-charitable-trusts-in-west-bengal-and-kolkata/</a>

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## **ANNEXURE-B**

### **REPORT OF CAG INDIA PERFORMANCE AUDIT ON EXEMPTION TO CHARITABLE TRUSTS OR INSTITUTIONS REPORT NO. 12 OF 2022**

The Report of the CAG referred to above contains some crucial findings which should be kept in mind by the AOs while carrying out the assessment so as to minimize the loss of revenue as well as audit objections. The executive summary of the report is reproduced below:

- Audit noticed that certain irregularities relating to internal audit of the registration process, ineffective monitoring of accumulation of income and its utilization, ineffective monitoring of receipts and utilization of foreign contribution, the inadequacy of survey of educational Trusts, absence of provision for disclosure of TDS in the audit report, etc. which were highlighted in the earlier Performance Audit Report No. 20 of 2013 and some of the specific recommendations of the Public Accounts Committee (PAC) against such irregularities were not satisfactorily addressed by the ITD. (Paragraph 3.2)
- Audit noticed an increasing trend in a number of Trusts/Institutions claiming exemptions from AYs 2014-15 to 2016-17; however, the number of Trusts/Institutions claiming exemptions for AY 2017-18 slightly decreased. (Paragraph 4.1.1)
- Analysis of data of 6.89 lakh cases pertaining to ITRs for AY 2014-15 to AY 2017-18 revealed that the ITD scrutinized only 0.25 lakh (3.7 percent) of the total cases while 6.30 lakh (91.4 percent) cases were processed under summary manner in an automated environment. However, the Audit noted certain deficiencies in the ITD system which led to incorrect claims of exemption along with the possibility of revenue leakage such as:
  - A. Due to the wrong input of data required for selection criteria in CASS, several cases were incorrectly selected for scrutiny by the ITD system.
  - B. There is an absence of adequate checks and validations to match the registrations/approvals data provided in the ITR Form-7 with the ITD systems database before allowing exemptions in case the returns were processed in a summary manner. In 42 assessment cases, exemption was allowed although trust or institutions did not mention their registration details under Section 12A/10(23C) of the Act in the ITR Form-7. In 10 assessment cases, the trust or institutions claimed exemptions for years together prior to its registration or having no registration under the Act, and the same was allowed by the Department in the summary assessment.

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C. Analysis of data of 6.89 lakh cases provided by the Pr.DGIT (Systems) revealed that exemption was allowed in 0.21 lakh cases although registration under Section 12AA was not available. In the case of foreign contribution, Audit noticed that in 347 cases, foreign contribution was received by the trust or institution though the registration details under FCRA were not available. Thus, field validations in the above-related field were not available in the ITR Form-7.

(Paragraph 4.1.3, 5.3.1, 5.3.2, 5.3.4.1 and 5.3.4.2)

- Out of 6.89 lakh cases processed/assessed/ rectified by the ITD during the FY 2014-15 to FY 2018-19, in 5.12 lakh cases (74.3 percent) the income returned was ` zero. (Paragraph 4.1.6)
- Analysis of 580 high value exemption cases (having gross income of ` 50 crore or above) revealed that 186 cases, which pertained to government entities, were granted 50.8 per cent of total exemptions ( ` 1.31 lakh crore) whereas the remaining 394 cases, which pertained to private entities, were granted 49.2 per cent of total exemptions. (Paragraph 4.3.6.2)
- An analysis of data of the top 200 audit sampled cases (involving 169 Trusts/Institutions) where gross income for each case was ` 167.9 crore or above, revealed that out of the 169 Trusts/Institutions, 101 Trusts/ Institutions were Government entities while 66 were private entities (records of two entities were not produced to audit). Activity-wise analysis of data revealed that in case of Government entities, the top 30 entities (29 per cent) were engaged in other activities (like pension and gratuity fund, welfare board etc.) whereas in case of the top private entities, 28 entities (42 per cent) were engaged in educational activities. (Paragraph 4.3.8.1)
- Audit observed that there is no clarity on allowing deduction under Section 80G for donations out of CSR fund. As a significant amount is spent by the companies toward CSR activities through the Trusts claiming exemptions under Section 80G, it requires urgent attention of the Department to bring clarity to the issue to ensure that the provisions are interpreted uniformly by the AOs and to minimise the possibility of litigation. (Paragraph 5.1.2.3)
- The IT Act has no clarity regarding allowance of various expenses under the head “administrative and establishment expenses” for the purpose of determining application of income. Since administrative and establishment expenses could be of various categories, some part of which may be directly attributable for generation of income while some part may be towards charitable and religious purpose, the ITD needs to bring more clarity in the Act for this purpose.

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- The IT Act has no provision to restrict donations by a Trust to another Trust out of current years' income. Therefore, certain Trusts/Institutions are taking undue benefits by availing of the permissible accumulation of 15 per cent out of the current year's income and then transferring the rest of the income to others trusts, and thereby making a chain of multiple donations. Audit noticed in four assessment cases that the Trusts/Institutions, which had received donations of ` 203.29 crore, had transferred ` 164.81 crore to other Trusts/Institutions by way of donations after claiming deduction of 15 per cent as accumulation. The recipient Trusts/Institutions also transferred the amounts to other trusts after claiming accumulation of 15 per cent. This chain of donation resulted in denial of charity to the beneficiaries and helped in accumulation in the hands of Trusts/Institutions. (Paragraph 5.1.2.7)
  - There was no parameter to verify the identity of the donors for detection of anonymous donation. Audit noticed six assessment cases where the department did not verify genuineness of the donors and therefore, did not tax the anonymous donation(s) as per provisions of the Act. The Ministry has since addressed this issue through the Finance Act 2020. (Paragraph 5.1.2.10)
  - The ITD did not produce registration/approval records of 194 cases (45 per cent) out of 425 cases registered/approved for exemptions during the FY 2014-15 to 2018-19. Further, Audit noticed deficiencies in following the prescribed procedure(s) relating to registration/approval such as delay in grant of registration/approval, irregular grant of registration, grant of registration/approval without submission of prescribed documents, grant of registration without verification etc. (Paragraph 5.2.1, 5.2.2, 5.2.3, 5.2.4 and 5.2.5)
  - Audit noticed deficiencies in the Audit Report in Form 10B applicable to charitable Trusts/Institutions such as absence of details of break-up of receipt under different heads, details of corpus donation, deemed application of income etc. which impacted the quality of assessment, incorrect claim made by the trust or institution and loss of revenue. (Paragraph 5.3.6)
  - Audit observed that the ITD allowed accumulation in 66 assessment cases in contravention to the provisions stipulated under Section 11(2) of the Act. (Paragraph 6.3)
  - Audit noticed 22 assessment cases where the trust or institutions utilised their income or property for the benefit of persons specified under Section 13(3) (i.e., related parties), but the ITD did not levy tax on such amount of income or property utilised for the benefit of the specified persons. (Paragraph 6.4)

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- Audit observed non-compliance of various provisions of the Act in the assessment orders, which culminated in irregular allowance of double benefits to the trust or institutions. In eight assessment cases, depreciation on assets was allowed as application of income, even though the relevant capital expenditure to acquire such assets had already been treated as application of income. In 11 assessment cases, the AO had allowed claims, pertaining to application of income incurred from the corpus fund, or other specific purpose funds. (Paragraph 6.5.1 and 6.5.2)
  - In 65 assessment cases, the AO while finalizing the assessment adopted incorrect figures, computed short demand, charged tax at a lower rate than the prescribed rate, levied interest/surcharge incorrectly, or granted excess interest on refund etc. (Paragraph 6.8)
  - The ITD has not allocated specific codes to different charitable activities linked with Section 11 and sub-Sections of 10(23C) under which exemption is being claimed. Further, the data relating to exemption claimed by the Government/Private Trust under different Sections were not being captured in ITR Form 7. The ITD needs to ensure activity wise monitoring of these private charitable entities, to mitigate the risk of ineligible claims. (Paragraph 7.1.1)
  - Although the PAC in its 104th Report (16th Lok Sabha) had recommended that the process of registration/approval of the Charitable Trusts/Institutions should be brought under the purview of Internal Audit of the ITD, it was not until FY 2019-20 that the Internal Audit commenced in respect of the registration applications processed. Moreover, Audit noticed that the instructions issued with regard to Internal Audit of registration process was not uniformly implemented in all the states. Audit further noted that the circular issued by the ITD regarding Internal Audit is applicable to registration granted under Section 12AA only but does not cover cases approved under Section 10(23C) and 80G(5). (Paragraph 7.1.3 and 7.1.4)
  - Audit noticed that very few surveys were conducted by the Department in comparison to the number of trust or institutions claiming exemption under the Act to monitor the activities of the Trusts/Institutions. Further, in spite of specific recommendation of the PAC that survey of all educational trusts be conducted in a time-bound manner, Audit observed that the ITD conducted surveys of only 0.3 per cent of the total 2,686 educational trusts (2,105 trust or institutions) included in the audit sample during 2014-15 to 2018-19. Further, no survey was conducted in respect of 46 high value educational trusts (having receipt of ` 200 crore or more) during the aforesaid period. (Paragraph 7.1.5)

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- There was inconsistency in allowing exemption to Trusts/Institutions having activities not charitable in nature. Audit observed in 10 assessment cases where the AO assessed that the activities of the Trusts were not charitable in nature for one or more AYs but took no action to review exemptions for the other AYs although the objects of the trust were similar during the respective AYs which resulted in irregular grant of exemptions. (Paragraph 7.1.6)
  - Audit observed in eight cases that the status of the Trusts/Institutions was not reviewed by the competent authority as per provisions of Section 12AA(3) and 12AA(4), although the AO had denied the exemption under Section 11 of the Act for either holding that the activities of trusts were not genuine or the properties or income of the trusts were continuously utilised by the trust for the benefit of related persons. (Paragraph 7.1.7)
  - Audit noticed that due to lack of monitoring of the activities of Trusts/ Institutions engaged in scientific research, there were bogus claims of exemption by the trusts as well as issue of bogus certificates under Section 35(1)(ii) to the donors. (Paragraph 7.1.9)
  - Audit noticed deficiencies of the ITD in effective monitoring of accumulation and its utilizations by Trusts/Institutions in the manner laid down in the Act. In 32 assessment cases, the Department did not effectively monitor utilization of past accumulated income as provided in Section 11(2). Further, there is no provision in the Act for declaration of the purpose/period of accumulation under Section 10(23C). (Paragraph 7.1.11 and 7.1.12)
  - Audit observed that the ITD has no mechanism to verify receipt and utilization of foreign contribution shown in the ITR Form-7 and that disclosed with Ministry of Home Affairs (MHA) under the FCRA Act. Although the PAC had made specific recommendation that the ITD should formulate a data sharing mechanism with the MHA to keep a track of foreign contribution received and its application, the ITD has yet to take any action on the issue. The deficiency resulted in incorrect claim of exemption on foreign contribution in 35 cases. (Paragraph 7.1.13)

# ANNEXURE-C

## KEY INFORMATION AVAILABLE IN THE RETURN (ITR-7)

This Annexure contains the details of the relevant parts of the ITR that are crucial for the AO to examine so as to enable him to verify certain crucial aspects, as mentioned below.

### 1. Details of Institutions

These details may be helpful for the AOs to understand the nature of all the projects and activities undertaken by the trust or institution.

(A18) Whether any project/institution is run by the assessee? (Yes/No) If Yes, then please furnish the details of the projects/institutions run by you			
Sl.	Name of the project/institution (see instruction)	Nature of activity (see instruction)	Classification (see instructions)
1			
2			
3			
4			

### 2. Details of registration or provisional registration

The AO may examine whether the trust or institution has valid registration for the AY under consideration or not.

(A19) Details of registration/provisional registration or approval under the Income-tax Act (Mandatory, if required to be registered) (Where regular registration/approval has been granted, details of provisional registration/approval are not required)					
Sl.	Section under which registered/ provisionally registered or approved/notified	Date of registration/provisional registration or approval	Approval/ Notification/ Unique Registration No. (URN)	Approving/ registering Authority	Date from which registration/ provisional registration/approval is effective



### 3. Details of projects/institutions

The AO may examine this part of the ITR to verify whether the trust or institution (being GPU) has correctly declared its commercial activities.

<b>OTHER DETAILS</b>	<b>(A2 3)</b>	<b>I</b>	Where, in any of the projects/institutions run by you, one of the charitable purposes is advancement of any other object of general public utility then,-		
		<b>a</b>	<b>i</b>	Whether there is any activity in the nature of trade, commerce or business referred to in proviso to section 2(15)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<b>ii</b>	If yes, then percentage of receipt from such activity vis-à-vis total receipts	%
		<b>b</b>	<b>i</b>	Whether there is any activity of rendering any service in relation to any trade, commerce or business for any consideration as referred to in proviso to section 2(15)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<b>ii</b>	If yes, then percentage of receipt from such activity vis-à-vis total receipts	%
			<b>ii</b>	If 'a' or 'b' is YES, the aggregate annual receipts from such activities in respect of that institution	
			<b>Sl</b>	Name of the project/Institution	Amount of aggregate annual receipts from such activities
			<b>a</b>		
			<b>b</b>		

### 4. Details of change of objects/activities

The AO may examine this schedule to verify whether there is any change in the objects of the trust during the year.

<b>(A2 4)</b>	<b>i</b>	Is there any change in the objects/activities during the Year on the basis of which approval/registration/provisional registration was granted?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<b>ii</b>	If yes, please furnish following information:-	___/___/___
	<b>A</b>	date of such change (DD/MM/YYYY)	
	<b>B</b>	Whether an application for fresh registration/provisional registration has been made in the prescribed form and manner within the stipulated period of thirty days as per clause (ab) of sub-section (1) of section 12A / sub-clause (v) of clause (ac) of sub-section (1) of section 12A	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<b>C</b>	Whether fresh registration/provisional registration has been granted under section 12AB	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<b>D</b>	date of such fresh registration/provisional registration (DD/MM/YYYY)	___/___/___

## 5. Details of the amount accumulated

The AO may examine this schedule to verify the accumulation in different years and whether any income accumulated during the earlier years has been applied during the year. This schedule also gives information about the income accumulated during the year.

<b>Schedule I</b> Details of amounts accumulated / set apart within the meaning of section 11(2) or in terms of third proviso to section 10(23C)/10(21)/10(21) read with section 35(1)							
Year of accumulation (F.Yr.)	Amount accumulated in the year of accumulation	Purpose of accumulation	Amount applied for charitable/religious/Scientific research/ social science or statistical research purposes upto the beginning of the previous year	Balance	Amount taxed in any earlier assessment year(s)	Balance available for application	Amounts applied for charitable or religious/Scientific research/ social science or statistical research purpose during the previous year out of previous years' accumulation
(1)	(2)	(3)	(4)	(5)=(2-4)	(6)	(7)=(5-6)	
2016-17							
2017-18							
2018-19							
2019-20							
2020-21							
2021-22							
2022-23							
Total							

## 6. Details of deemed application

The AO may examine this schedule to verify the deemed application in different years and whether any income deemed to be applied during the earlier years has been applied during the previous year. This schedule also gives information about the income deemed to be applied during the previous year.

<b>Schedule D</b> Details of deemed application of income under clause (2) of Explanation 1 to sub-section (1) of section 11.									
Year in which income is deemed to be applied (F.Yr.)	Amount deemed to be applied during the previous year of deeming	Reason of deeming application on income has not been received during that year any other reason	Out of the deemed application on claimed, amount required to be applied	Amount taxed in any earlier assessment year(s)	Out of the deemed application claimed, amount required to be applied during the financial year pertaining to current Assessment year	Amount of deemed application claimed in earlier years, applied during the financial year pertaining to current AY	Amount which could not be applied and deemed to be income u/s 11(1B) during the previous year	Balance Amount of deemed Income being exemption claimed in earlier years on account of deemed application and required to be applied in FY 2023-24 onwards	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)=(6-7)	(9)=(4-6)	
<i>Dropdowns to be provided</i>		<i>Dropdowns to be provided</i>							
<b>2022-23</b>		<i>Dropdowns to be provided</i>							
<b>Total</b>									

## 7. Details of investment of funds

This schedule contains information related to different types of corpus and the changes in the corpus during the year. It also contains information as to where the corpus has been invested.

<b>Schedule J</b>		Statement showing the funds and investments as on the last day of the previous year [to be filled by assesses claiming exemption u/s 11 and 12 or u/s 10(23C) (iv) or 10(23C)(v) or 10(23C)(vi) or 10(23C) (via) ]									
<b>A1 Details of corpus</b>											
<b>DETAILS OF INVESTMENT</b>		Opening Balance as on 01.04.2022 (corpus not applied till 31.03.2022)	Received/Treated as corpus during the year	Applied during the year	Amount invested or deposited back in to corpus (which was earlier applied and not claimed as application)	Total amount invested or deposited back in to corpus	Financial year in which (4) was applied earlier	Closing Balance as on 31.03.2023	Invested in modes specified in Sec 11(5) as on 31.03.2023	Amount taxed in assessment year 2022-23	Invested in modes other than specified in section 11(5) as on 31.03.2023
		(1)	(2)	(3)	(4)	(5)	(6)	(7)=(1+2+5-3)	(8)	(9)	(10)=(7-8-9)
	Corpus Donation										
	(i.) Representing donations, received for the renovation or repair of places notified u/s 80G(2)(b) on or after 01.04.2020										
	(ii.) Other than (i) above received on or after 01.04.2021										
	(iii.) Other than (i) and (ii) above										
	Total										

## 8. Details of reconciliation of Corpus

This schedule contains the reconciliation between the balance sheet and schedule J.

Schedule R		Reconciliation of Corpus of Schedule J and Balance sheet		
Particulars		Corpus out of the donations received for renovation or repair of places notified u/s 80G(2)(b) on or after 01.04.2020	Other corpus received on or after 01.04.2021	Corpus other than (a) and (b)
		(1)	(2)	(3)
A. Closing balance as on 31.03.2023 as per Schedule J				
B. Reasons of difference (+/-) (Bi+Bii+Biii)				
i) Purchase of fixed asset				
ii) Depreciation				
iii) Any other reason (Please specify)				
C. Closing balance as on 31.03.2023 as per Balance sheet (A+B)				

## 9. Details of voluntary contributions

Schedule VC contains the details of different donations such as corpus donations, foreign donations, and anonymous donations received during the year.

Schedule VC		Voluntary Contributions [to be mandatorily filled in by all persons filing ITR-7]					
A	Domestic Contribution (Other than anonymous donations taxable u/s 115BBC)						
	i	Corpus donation (Aia + Aib)		Ai			
	a	Corpus representing donations received for the renovation or repair of places notified u/s 80G(2)(b)	Aia				
	b	Corpus other than above	Aib				
	ii	Other than corpus donation					
		(a)	Grants Received from Government	Aiia			
		(b)	Grants Received from Companies under Corporate Social Responsibility	Aiib			
		(c)	Other specific grants	Aiic			
		(d)	Other Donations	Aiid			
		(e)	Total	Aiie			
	iii	Voluntary contribution Domestic (Ai + Aiie)		Aiii			
	B	Foreign contribution (other than anonymous donations taxable u/s 115BBC)					
		i	Corpus donation (Bia + Bib)		Bi		
		a	Corpus representing donations received for the renovation or repair of places notified u/s 80G(2)(b)	Bia			
		b	Corpus other than above	Bib			
ii		Other than corpus donation		Bii			
iii		Foreign contribution (Bi + Bii)		Biii			
iv		Specify the purpose for which foreign contribution has been received		Biv	Free text box		
C	Total Contributions (Aiii + Biii)		C				
D	Anonymous donations, chargeable u/s 115BBC [Applicable to assessee claiming exemption u/s 11 or 10(23C)(iv) or 10(23C)(v) or 10(23C)(vi) or 10(23C)(via) or 10(23C)(iiiad) or 10(23C)(iiiiae)]						
	i	Aggregate of such anonymous donations received		i			
	ii	5% of total donations received at SL No C+Di or 1,00,000 whichever is higher		ii			
	iii	Anonymous donations chargeable u/s 115BBC @ 30% (i - ii)		iii			

## 10. Details of aggregate income derived

This schedule contains the details of different types of income received by the trust other than donations.

<b>Schedule AI</b>		<b>Aggregate of income derived during the previous year excluding Voluntary contributions [to be filled by assesses claiming exemption u/s 11 and 12 or u/s 10(23C)(iv) or 10(23C)(v) or 10(23C)(vi) or 10(23C)(via)]</b>			
<b>AGGREGATE OF INCOME</b>	1	Receipts from main objects		1	
	2	Receipts from incidental objects		2	
	3	Rent		3	
	4	Commission		4	
	5	Dividend income		5	
	6	Interest income		6	
	7	Agriculture income		7	
	8	Net consideration on transfer of capital asset		8	
	9	Any other income (specify nature and amount)			
			<b>Nature</b>		<b>Amount</b>
	A	Pass through income/Loss (Fill schedule PTI)	a		
	B		b		
	C		c		
	D		d		
	E	Total (9a+ 9b+ 9c +9d)	e	9e	
10	Total (1 + 2 + 3 + 4 + 5 + 6 + 8 + 9)			10	

## 11. Details of the amount applied to stated objects of the trust/institution

This schedule contains the details of the application of income by the trust.

<b>Schedule A</b>		<b>Amount applied to stated objects of the trust/institution during the previous year from all sources referred to in C1 to C7 of this table- [to be filled by assessee claiming exemption u/s 11 and 12 or u/s 10(23C)(iv) or 10(23C)(v) or 10(23C)(vi) or 10(23C)(via)]</b>			
<b>A</b>	<b>Application towards the expenditure of the trust/institution</b>	<b>Revenue</b>	<b>Capital</b>	<b>Total</b>	
1	Donation to trust or institution registered u/s 12AB or approved u/s 10(23C)(iv)/(v)/(vi)/(via)- Other than Corpus	1			
2	Religious	2			
3	Relief of poor	3			
4	Educational	4			
5	Yoga	5			
6	Medical relief	6			
7	Preservation of environment	7			
8	Preservation of monuments etc.	8			
9	General public utility	9			
10	Application which cannot be specifically identified under 1 to 9 above	10			
11	Cost of new asset for claim of exemption u/s 11(1A) (restricted to the net consideration)	11			
12	Total (A1 to A11)	A12			

# ANNEXURE-D

## INFORMATION AVAILABLE IN THE AUDIT REPORT

### 1. Details of registration / provisional registration

This row contains the details of different registrations available with the trust or institution.

<b>Registration Details</b>	9.	Details of registration/provisional registration or approval/provisional approval or notification of the auditee under the Income-tax Act (details of all the registration/provisional registration/approval provisional approval/notification which are valid during the previous year should be provided, however where the auditee has got the registration/approval after provisional registration/approval the details of provisional registration/approval need not be provided)				
		Section under which registered/ provisionally registered or approved/ provisionally approved/ notified (refer note")	Date of registration/ provisional registration or approval/ provisionally approval/ notification  (dd/mm/yyyy)	Registration/ Approval/ Notification/ Unique Registration No. (URN), if available	Authority granting registration/ provisional registration or approval/ provisional approval or notification	Date from which registration/ provisional registration/ approval/ provisional approval/ notification is effective  (dd/mm/yyyy)
		(1)	(2)	(3)	(4)	(5)

### 2. Details of specified persons

This row contains the details of the key persons of the trust

<b>Management</b>	10	(a) Details of all the Author (s)/ Founder (s)/ Settlor/Trustee (s)/ Members of society/ Members of the Governing Council/ Director (s)/ shareholders holding 5% or more of shareholding / Office Bearer (s) of the auditee of any time during the previous year							
		Name of person	Relation refer note#>	Percentage of shareholding in case of shareholder	Unique Identification Number	Id Code <refer note##>	Address	Whether there is any change in relation during previous year of audit Yes/No	If yes, specify the change
		(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
		(b) in case if any of the persons [as mentioned in row 10(a)] is not an individual, then provide the following details of the natural persons who are beneficial owners (5% or more) of such person at any time during the previous year							
	Sl. No.	Name	Unique Identification Number	ID code <refer note##>	Address	Non individual person [as mentioned in row no 10(a)] in which beneficial ownership held	Percentage of beneficial ownership	Where there is any change previous year of audit Yes/No	If yes, specify the change
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

### 3. Commencement of activities

This row contains the details of the commencement of activities in case of trusts and institutions that have got provisional registration.

Commencement if activities	13	(i)	Where the auditee has been granted provisional registration or provisional approval, whether activities have commenced during the previous year	Yes/No												
		(ii)	If yes in 13 (i), date of commencement of activities	<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 20px; height: 20px;">d</td> <td style="width: 20px; height: 20px;">d</td> <td style="width: 20px; height: 20px;">m</td> <td style="width: 20px; height: 20px;">m</td> <td style="width: 20px; height: 20px;">y</td> <td style="width: 20px; height: 20px;">y</td> <td style="width: 20px; height: 20px;">y</td> <td style="width: 20px; height: 20px;">y</td> </tr> </table>					d	d	m	m	y	y	y	y
	d	d	m	m	y	y	y	y								
		(iii)	If the answer to 13(i) is yes, whether application for registration under section sub-clause (iii) of clause (ac) of sub-section (1) of section 12A or application for approval under clause (iii) of the first proviso to clause (23C) of section 10 has been filed?	Yes/No												
		(iv)	If yes in 13(iii) above, provide the following details regarding application for registration under section sub-clause (iii) of clause (ac) of sub-section (1) of section 12A or application for approval under clause (iii) of the first proviso to clause (23C) of section													
			S.No.	Date of Application	Status of registration in pursuance to application	Date of Registration / Cancellation based on such application	URN of such registration									

### 4. Commercial activities by GPU

This part contains the details of commercial activities by the GPU.

Advancement of General Public Unity	15.	Where, in any of the projects institutions run by auditee, one of the charitable purposes is advancement of any other object of general public utility then -							
		(A)	Whether any activity is being carried on by the auditee which is in the nature of trade, commerce or business referred to in proviso to clause (15) of section 2?	Yes/No					
		(B)	If yes, then percentage of receipt from such activity vis-à-vis total receipts	%					
		(B)	Whether such activity in the nature of trade, commerce or business is undertaken in the course of actual carrying out of such advancement of any other object of general public utility	Yes/No					
		(D)	Whether there is any activity of rendering any service in relation to any trade, commerce or business for any consideration as referred to in proviso to clause (15) of section 2?	Yes/No					
		(E)	If yes, then percentage of receipt from such activity vis-à-vis total receipts	%					
		(F)	Whether such activity of rendering service is undertaken in the course of actual carrying out of such advancement of any other object of general public utility	Yes/No					
		16.	If 'A' or 'D' in 15 is Yes, the aggregate annual receipts from such activities in respect of that project/institution						
				S.No.	Name of Project / Institution	Amount of aggregate annual receipts from activities referred in 15A and 15D (in Rs.)			
			Total						



## 5. Details of business undertaking

This part contains the details of commercial activities by the trust or institution where such business undertaking is settled into the trust.

<b>Business Undertakings</b>	17,	(i)	Whether the auditee has any business undertaking as referred to in sub-section (4) of section 11	Yes/No	
		(ii)	If yes, then provide the following details of the business undertaking		
			(a)	Nature of Business Undertaking	
			(b)	Business Code	
			(c)	Whether separate books of account have been maintained for the business undertaking (refer note)	Yes/No
			(d)	Income from the business undertaking for the persons year which is not to be included in the total income of the auditee as per sub-section (4) of section 11	Amount in Rs.
(e)	Income from the business undertaking for the previous year which is to be included in the total income of the auditee as per sub-section (4) of section 11	Amount in Rs.			

## 6. Details of business incidental

This part contains the details of commercial activities by a trust or institution and whether such activities are incidental or not. It also contains the information on whether separate books of account have been maintained by the trust or institution.

<b>Business Incidental to Objects</b>	18.	(i)	Whether the auditee has any income being profits and gains from any business as referred in seventh proviso to Clause (23C) of section 10 or sub-section (4A) of section 11, as the case may be	Yes/No	
		(ii)	If yes, then provide the following details of such business:		Yes/No
			(a)	Nature of Business	
			(b)	Business Code	
			(c)	Whether separate books of account have been maintained for the business <refer note>	Yes/No
			(d)	Whether the business is incidental to the attainment of the objects of the auditee	Yes/No
(e)	Profits and gains from the business during the previous year	Amount in Rs.			

## 7. Details of TDS

This part contains the report of the auditor on whether different receipts of the trust or institution, on which TDS has been deducted as per the provisions of section 194C/J/H/Q are business activities or not. Where such activities are not business activities, the auditor is required to specify the nature of the activities. The auditor is also required to report whether such activities are incidental to the attainment of the objects of trust or not and whether separate books of account have been maintained by the auditor.

TDS on receipts	19. Details of the receipts of the auditee on which tax has been deducted at source referred to in sections 194C or 194J or 194H or 194Q										
	S.No.	Name of the deductor	TAN of deductor	Amount of which tax has been deducted at source (in Rs.)	Amount of tax deducted at source	Section under which tax has been deducted at source	Category of income/receipt			Income/receipt in column 7 or 8 which is from business incidental to the attainment of the objects of the auditee (In Rs.)	Whether separate books of account have been maintained for activities income/receipt which is mentioned in column 10 (Yes/No)
							Trade, commerce or business (Rs.)	Activity of rendering any service in relation to any trade, commerce or business (Rs.)	Others (specify the nature) (Rs.)		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	

## 8. voluntary contribution

This part of the audit report contains the details of the reconciliation of the statement of donations in form 10BD with the donations as per the books of account. This part is crucial to verify the anonymous donations and donations in kind especially.

20.	Whether the provisions of twenty second proviso to clause (23C) of section 10 or sub-section (10) of section 13 are applicable	Yes/No
21.	Whether auditee has filed Form No. 10BD for the previous year - If No then skip to row 23	Yes/No
22.	Total Sum of donations reported in Form No. 10BD furnished by the auditee for the previous year	(Amount in Rs.)
	Donations not reported in Form No. 10BD / Not required to fill Form No. 10BD	
	Donations received by fund or trust or institution of the auditee which is approved under clause (b) of sub-section (2) of section 80G	Amount in Rs.
	Donations received by fund or trust or institution of the auditee which qualifies for deduction under section 80G (other than those donations qualifying under clause (b) of sub-section (2) of section 80G or sub-clause (iv) of clause (a) of sub-section (2) of section 80G)	Amount in Rs.
	(iii) Donations received by fund or trust or institution of the auditee approved under sub-clause (iv) of clause (a) of sub-section (2) of section 80G and which are not eligible under sub-section (5) of section 80G	Amount in Rs.
	(a) Cash donations exceeding Rs. 2000	Amount in Rs.
	(b) Donations received from other charitable trusts and institution or from any fund or institution or trust or any university or other educational institutions or any hospital or other medical institution not eligible for deduction	Amount in Rs.
	(c) Others Specify the nature	Amount in Rs.
	(d) Total (a)+(b)+(c)	Amount in Rs.
23.	Donations which could not be reported in Form No. 10BD due to non-availability of identification of donor as required under Form No. 10BD	Amount in Rs.
	Donations received in kind	Amount in Rs.
	Anonymous Donations referred to in section 115BBC	
	(a) Amount of anonymous donation not taxable under section 115BBC on account of applicability of clause (i) of sub-section (1) of section 115BBC	Amount in Rs.
	(b) Amount of anonymous donation not taxable under section 115BBC on account of applicability of clause (a) of sub-section (2) of section 115BBC	Amount in Rs.
	(c) Amount of anonymous donation not taxable under section 115BBC on account of applicability of clause (b) of sub-section (2) of section 115BBC	Amount in Rs.
	(d) Other anonymous donations taxable @ 30% under section 115BBC	Amount in Rs.
	(e) total (a+b+c+d)	Amount in Rs.
	(vii) Any other voluntary contribution not part of Form No. 10BD	Amount in Rs.
	(viii) Total donation not reported in Form No. 10BD [23(i)+23(iii)(d) +23(iv)+23(v)+23(vi)(e)+23(vii)]	Amount in Rs.

### Voluntary contributions

## 9. Voluntary contribution part of the corpus

This part of the audit report contains details of the corpus donations received by the trust or institution.

		Amount in Rs.
24.	Total voluntary contributions received by the auditee during the previous year [22+23(viii)]	Amount in Rs.
25.	Total foreign contribution out of the total voluntary contribution stated in 24	<Fill Schedule FC>
	Voluntary Contribution forming part of corpus (which are included in 24)	Amount in Rs.
26.	(A) Corpus representing donations received for the renovation or repair of places notified under clause (b) of sub-section (2) of section 80G eligible for exemption under Explanation 1A to the third proviso to clause (23C) of section 10 or Explanation 3A to sub-section (1) of section 11	Amount in Rs. <Fill Schedule Corpus>
	(B) Corpus donations as referred to in clause (d) of sub-section (1) of section 11 or Explanation 1 to the third proviso to section 10 (23C) eligible for exemption and invested in modes specified under sub-section (5) of section 11	Amount in Rs. <Fill Schedule Corpus>
27.	Voluntary Contributions required to be applied by the auditee during the previous year [24-(23(vi)(d)+26A+26B)]	Amount in Rs.

## 10. Income other than a voluntary contribution

This part of the audit report contains details of the income other than donations and the income that has been applied outside India.

Income to be applied	28.	Income other than voluntary contributions devied from property held under trust referred to in section 11 or income of fund or institution or trust or any university or other educational institution or any hospital or other medical institution (other than the contribution reported in serial number 24)	Amount in Rs.
	29.	Income applied outside India which is eligible under clause (c) of sub-section (1) of section 11	Amount in Rs. <Fill Schedule Int App>
	30.	Income required to be applied in India by the auditee during the previous year [27+28+29]	Amount in Rs.

## 11. Party-wise details of the application of income

This part of the audit report contains the details of the application of income with details of different persons to whom payment in excess of Rs 50 lakh has been made during the year. This information may be utilized by the AO to verify the genuineness of the application of income. It also contains details about the mode of payment (electronic or otherwise) and whether TDS has been deducted or not.

(ii)	Details of application out of (i) (a) and (i) (b) resulting in payment in excess of Rs. 50 lakh during the previous year to any person								
	S.No.	Name of person to whom amount paid or credited	PAN of such person	Amount of application (Rs.)	Mode of application		TDS		
					+Electronic modes (Rs.)	Other than Electronic modes (Rs.)	Total	Whether any TDS has been deducted Yes/No	Section under which TDS has been deducted

## 12. Income taxable u/s 115BBI

This part of the audit report contains the details of income taxable u/s 115BBI

Section 115BBI	Income taxable under section 115BBI			Amount in Rs.		
	33.	(a)	Whether the auditee has any deemed income referred to in sub-section (1B) of section 11 which is chargeable to tax @ 30% under section 115BBI and the amount of such deemed income.		Yes/No If yes fill Schedule D	
		(b)	Whether the auditee has any deemed income referred to in Explanation 4 to third proviso to clause (23C) of section 10 or sub-section (3) of section 11 which is chargeable to tax @ 30% under	Yes/No If yes fill Schedule AC	Amount in Rs.	
		(i)	Whether income accumulated is applied for the purposes other than charitable or religious purposes or ceases to be accumulated or set apart for application thereto	Yes/No	Amount in Rs.	
		(ii)	Whether such income accumulated ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5) of section 11	Yes/No	Amount in Rs.	
		(iii)	Whether such income accumulated is not utilised for the purpose for which it is so accumulated or set apart during the period referred to in clause (a) of Explanation 3 to third proviso to clause (23C) of section 10 or clause (a) of sub-section (2) of section 11	Yes/No	Amount in Rs.	
		(IV)	Whether such income accumulated is credited or paid to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10	Yes/No	Amount in Rs.	
		(c)	(i)	Whether the auditee has any income which is income not to be excluded from the total income under twenty first proviso to clause (23C) of section 10 or clause (c) of sub-section (1) of section 13 which is chargeable to tax @30% under section 115BBI and the amount of such income	Yes/No	Amount in Rs.
			(ii)	Whether the auditee has any income which is not to be excluded from the total income under clause (b) of third proviso to clause (23C) of section 10 or clause (d) of sub-section (1) of section 13 which is chargeable to tax @30% under section 115BBI and the amount of such income	Yes/No	Amount in Rs.
		(d)	Whether the auditee has any income accumulated or set apart in excess of fifteen per cent of the income where such accumulation is not allowed under any specific provision of the Act and which is chargeable to tax @30% under section 115BBI and the amount of such income?	Yes/No	Amount in Rs.	
		(e)	Whether the auditee has made any application out of India which is not excluded from total income under clause (c) of sub-section (1) of section 11	Yes/No <If yes fill schedule Int App>	Amount in Rs.	

## 13. Anonymous donation

This part of the audit report contains the details of income taxable u/s 115BBC

34.	Anonymous donation which is chargeable to tax @30% under section 115BBC	Amount in Rs.
-----	---	---------------

#### 14. Application of income from sources other than current year income

This part of the audit report contains details of the income applied during the year from sources other than the current year's income. This is required to be verified during the year when it is applied because the trust has claimed the exemption in the earlier years based on such accumulation or deemed application or treating such income as corpus or otherwise.

Application of income out of different sources	37.	Application of income out of the following sources during the previous year				
		(A)	Income accumulated under third proviso to clause (23C) of section 10 or under sub-section (2) of section 11 during any earlier previous year	+Electronic modes (Rs.)	Other than Electronic modes (Rs.)	Total Amount (Rs.) <Fill schedule AC>
		(B)	Income deemed to be applied in any preceding year under clause (2) of Explanation 1 to sub-section (1) of section 11 during any earlier previous, year	+Electronic modes (Rs.)	Other than Electronic modes (Rs.)	Total Amount (Rs.) <Fill schedule DI>
		(C)	Income of earlier previous years up to 15% accumulated or set apart	+Electronic modes (Rs.)	Other than Electronic modes (Rs.)	Total Amount (Rs.)
		(D)	Corpus	+Electronic modes (Rs.)	Other than Electronic modes (Rs.)	Total Amount (Rs.) <Fill schedule Corpus>
		(E)	Borrowed fund	+Electronic modes (Rs.)	Other than Electronic modes (Rs.)	Total Amount (Rs.) <Fill schedule LB>
		(F)	Any other (Please specify)	+Electronic modes (Rs.)	Other than Electronic modes (Rs.)	Total Amount (Rs.) <Fill schedule LB>

#### 15. Taxable income on a net basis

This part of the report contains the details of the income taxable on a net basis for certain violations, as already discussed.

13(10) and 22nd proviso to section 10(23C)	39.	(i)	Whether provisions of twenty second proviso to clause (23C) of section 10 or sub-section (10) of section 13 are applicable?	Yes/No		
		(ii)	If yes in (i) specify the reason why the provisions of twenty second proviso to clause (23C) of section 10 or sub-section (10) of section 13 are applicable?			
			(a)	Provision of proviso to clause (15) of section 2 is applicable	Yes/No	
			(b)	Condition specified in clause (a) of tenth proviso to clause (23C) of section 10 or sub-clause (i) of clause (b) of sub-section (1) of section 12A have been violated	Yes/No	
			(c)	Condition specified in clause (b) of tenth proviso to clause (23C) of section 10 or sub-clause (ii) of clause (b) of sub-section (1) of section 12A have been violated	Yes/No	
		(d)	Condition specified in twentieth proviso to clause (23C) of section 10 or sub-clause (ii) of clause (ba) of sub-section (1) of section 12A have been violated	Yes/No		
		(iii)	If yes in (i), please provide computation of income chargeable under twenty second proviso to clause (23C) of section 10 or sub-section (10) of section 13			
			(a)	Income for the previous year	Amount in Rs.	
			(b)	Total Expenditure incurred in India, for the objects of the auditee	Amount in Rs.	
				(c)	Expenditure to be disallowed	

			Expenditure from the corpus standing to the credit of the trust or institution as on the end of the financial year immediately preceding the previous year relevant to the assessment year for which income is being computed	Amount in Rs.
	(i)		Expenditure from any loan or borrowing	Amount in Rs.
	(ii)		Depreciation in respect of an asset, acquisition of which has been claimed as application of income in the same or any other previous year, and	Amount in Rs.
	(iii)		Expenditure in the form of contribution or donation to any person	Amount in Rs.
	(iv)		Capital expenditure	Amount in Rs.
	(v)		Amount disallowable under Explanation to sub-section (10) of section 13 or Explanation to twenty second proviso to clause (23C) of section 10 read with sub-clause (ia) of clause (a) of section 40	Amount in Rs. <fill schedule TDS disallowable>
	(vi)		Amount disallowable under Explanation to sub-section (10) of section 13 or Explanation to twenty second proviso to clause (23C) of section 10 read with sub-section 3 or 3A of section 40A	Amount in Rs. <fill schedule 40A(3)/Schedule 40A(3A)>
	(vii)		Any other disallowance	Amount in Rs.
	(viii)		Total expenditure to be disallowed (i)+(ii)+(iii)+(iv)+(v)+(vi)+(vii)+(viii)	Amount in Rs.
	(ix)		Income chargeable to tax under twenty-second proviso to clause (23C) of section 10 or sub-section (10) of section 13 [ a - b+c(x)]	Amount in Rs.
(d)				



## 16. Details of specified person

This part of the audit report contains the details of all the specified persons. The AO may use this information to verify whether any of the transactions with these persons result in passing any unreasonable benefit to the specified person.

Details of specified person* as referred to in sub-section (3) of section 13						
41.	Code of Person referred to in sub-section (3) of section 13 <Refer Note^^>	Name of such person	PAN of such person	Aadhar number of such person, it allotted	Address of such person	If code 2 selected in column (1) specify the amount of contribution made to the auditee

## 17. Details of transaction in section 13(2)

The auditor reports in this part of the report whether any of the transactions entered into with the specified persons are not at arm's length.

42. Details of transactions referred to in section 13 (2)		
(a)	Whether any part of the income or property of the auditee is, or continues to be, lent to any specified person for any period during the previous year without either adequate security or adequate interest or both	Yes/No <If yes, fill ScheduleSP-a>
(b)	Whether any land, building or other property of the auditee is, or continue to be, made available for the use of any specified person, for any period during the previous year	Yes/No <If yes, fill ScheduleSP-b>
(c)	Whether any amount is paid by way of salary, allowance or otherwise during the previous year to any specified person out of the resources of the trust or institution for services rendered by that person to such auditee and the amount so paid is in excess of what may be reasonably paid for such services	Yes/No <If yes, fill ScheduleSP-c>
(d)	Whether the services of the auditee are made available to my specified person during the previous year without adequate remuneration or other compensation	Yes/No <If yes, fill ScheduleSP-d>
(e)	Whether any share, security or other property is purchased by or on behalf of the auditee from any specified person during the previous year for consideration which is more than adequate	Yes/No <If yes, fill ScheduleSP-e1/e2>
(f)	Whether any share, security or other property is sold by or on behalf of the auditee to any specified person during the previous year for consideration which is less than adequate	Yes/No <If yes, fill ScheduleSP-f1/f2>
(g)	Whether any income of property of the auditee is diverted during the previous year in favour of any specified person	Yes/No <If yes, fill ScheduleSP-g>
(h)	Whether any funds of the auditee are, or continue to remain, invested for any period during the previous year, in any concern in which any specified person has a substational interest	Yes/No <If yes, fill ScheduleSP-h>

## 18. Specified violation

This part of the audit report contains the details of specified violations.

<b>Specified Violation</b>	43.	Specified Violation		
		Whether the auditee has incurred any specified violation as referred to in Explanation 2 to the fifteenth proviso to clause (23C) of section 10 or Explanation to sub-section (4) of section 12B and the amount of such violation	Yes/No	Amount in Rs.
	(a)	Income of auditee has been applied other than for the objects of the trust or institution	Yes/No	Amount in Rs.
	(b)	Attainment of its objectives or separate books of account are not maintained by auditee in respect of the business which is incidental to the attainment of its objectives	Yes/No	Amount in Rs.
	(c)	Whether the auditee, referred to in clause (a) of sub-section (1) of section 13, has applied any part of its income from the property held under a trust for private religious purposes, which does not enure for the benefit of the public	Yes/No	Amount in Rs.
	(d)	Whether the auditee, referred to in clause (b) of sub-section (1) of section 13, has applied any part of its income for the benefit of any particular religious community or caste	Yes/No	Amount in Rs.
	(e)	Whether any activity being carried out by the auditee is not genuine or is not being carried out in accordance with all or any of the conditions subject to which it was registered	Yes/No	Amount in Rs.
	(f)	Whether the auditee has not complied with the requirement of any other law, for the time being in force, and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality	Yes/No	If yes, fill schedule other law violation

## 19. TDS and other violation






This part of the audit report contains the details of TDS and other violations.

	46.	Whether the auditee has taken or accepted any loan or deposit or any specified sum, exceeding the limit specified in section 269SS during the previous year?	Yes/No	Amount in Rs. (If yes, fill Schedule 269SS)
	47	Whether the auditee has received an amount exceeding the limit specified in section 269ST, from a person a day, or in respect of a single transaction, or in respect of transactions relating to one event or occasion from a person during the previous year?	Yes/No	Amount in Rs. (If yes, fill Schedule 269ST)
	48.	Where the auditee has repaid any amount being loan or deposit or any specified advance exceeding the limit specified in section 269T, during the previous year?	Yes/No	Amount in Rs. (If yes, fill Schedule 269T)
	49.	Where the auditee is required to deduct or collect tax as per the provisions of Chapter XVII-B or Chapter XVII-BB?	Yes/No	(If yes, fill Schedule TDS/TCS/ Statement of TDS/TCS/Interest on TDS/TCS as applicable)





**Income Tax Department**  
**Central Board of Direct Taxes**

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