Registration, Audit, Filing of Returns and Assessments under the IT Act and FCRA Compliance of NPOs .

Madurai Branch of SIRC of ICAI

17th August 2024

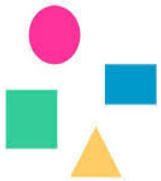


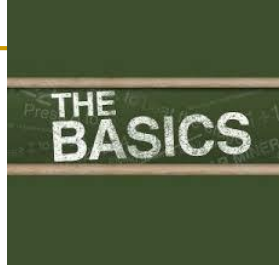
Dr. CA. M.Kandasami
Chennai

A PLAN OF THE PRESENTATION

S.No	*Contents*	*Time*	*Speaker*
1	Context, Background and Legal Environment	10.15 to 10.30	Dr.CA.Kandasami
2	Audit & Filing (Form 10B /10BB Uploading) Compatibility & Matching with ITR Utility	10.30 to 11.30	Dr.CA.Kandasami With CA Daniel
	Tea Break	11.30 to 12.00	
3	Amendments 2024 & Registration	12.00 to 01.00	CA Daniel
4	Inter charity Donations	01.00 to 01.30	CA Sudhakaran
	Lunch	01.30 to 2.30	
5	Compliances under FCRA	02.30 to 03.00	Dr.CA.Kandasami
6	Panel Discussion	03.00 to 04.30	Dr.CA.Kandasami CA Daniel CA Sudhakaran

Let's Start from the Basics





Basics in Form 10 B



Audit Report in Form 10B & 10BB

Why Audit report required to be filed?

- Section 12A: Conditions for Applicability of Section 11& 12

Section 12A(1)(b):

- Total Income of a T/I computed without giving effect to sections 11&12 exceeds the maximum amount not chargeable to tax (Rs. 2,50,000/-) in any given financial year,

Section 12A(1)(b)(ii):

- the **accounts for the year** has to be audited by a CA. furnishes the report **in the prescribed form.**

Rule 17B

- *From 01.04.2023 onwards Rule 17B prescribes the conditions in choosing the form of Audit Report ie., 10B or 10BB*



condition

Timely Filing of Returns

- *Section 12A(1)(ba)*
  - *Mandates to file the return of income as per section 139(4A) within the time allowed.*
- *Section 139(4A)*
  - *Income derived from property held under trust or other obligation wholly for charitable or religious purposes.*
  - *Voluntary contribution referred in Section 2(24(iia)*
  - *Total income "without giving effect to section 11 & 12" exceeds the maximum amount which is not chargeable to tax*

Finance Act, 2017

Section 12 condition to claim Exemption

condition

Timely Filing of Returns

- " *Without Giving effect to* the provisions of Section 11" *Means:*
  - Gross receipts or total income *without considering the expenditure.*
  - *Gross receipts includes Corpus donations* or any other donations referred in section 2(24)(iia)
- Due date for filing of return as per Explanation 2 to section 139
  - Accounts are to be audited : 31st October
  - Otherwise 31st July

condition

Timely Filing of Returns

- Belated Filing of Return of Income
  - Section 139(4) deals with the filing of return of income belatedly.
  - If the return not filed within the due date 139(1)
  - May furnish the return for any previous year at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.
- Section 13(5): Revised return of Income
  - Any omission or wrong statement
  - File revised return before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier





condition

Timely Filing of Returns

- *In case of section 8 company, being assessed as company, the maximum amount not chargeable to tax will not apply.*
- *Consequences of failure to furnish Return of income*
  - *Penalty of Rs. 5000/- u/s 271F (from which year AY 2017 18)*
  - *Penalty at the rate of Rs. 100/- per day of default u/s 272A(2)(e).*

Timely Filing of Returns



Section 13(9)

- Section 11(2) benefits will not be available
  - Statement referred in clause (a) of Section 11(2), form 10, on or before the due date as per 139(1)
  - Filing of return of income on or before the due date 139(1)

Finance Act, 2015
w.e.f.1.4.2016



Audit Report in Form 10B & 10BB

(When) Due Date for Filing the Form

- For the AY 2023-2024, 30th September 2023

Caution:

- File the Form 10B
- File the Form on time.





Audit Report in Form 10B & 10BB

Mode of Audit Report

- *With effect from AY 2020-21, it is required that Form 10B is mandatorily filed in the online mode only.*
- *Form 10B is assigned to CA by a taxpayer.*

How the Audit Report will be Filed?

- *Practicing CA can upload and e-Verify the form using a registered, active and valid DSC.*
- *The taxpayer then has to accept the request and e-Verify the same using* **DSC** *to complete the submission process.*
- *The Audit Report is Filed.*



HOW

Chartered Accountant

Audit Report in Form 10B & 10BB

What is the Need for New Form?

- From the Finance Act 2020, many changes are brought relating to charitable Institutions.
- The compliance or violations or status of those changes or amendments are to be captured and hence new form is introduced.

Penalty for Non-filing of Audit Report

- There is no separate penalty prescribed in the act, but the organization will loose the exemption under section 11& 12
- Loosing exemption under section 11 & 12 is it self is a big penalty.





condition

Timely Filing of Returns

- *Section 12A(1)(ba)*
  - *Mandates to file the return of income as per section 139(4A) within the time allowed.*
- *Section 139(4A)*
  - *Income derived from property held under trust or other obligation wholly for charitable or religious purposes.*
  - *Voluntary contribution referred in Section 2(24(iia)*
  - *Total income "without giving effect to section 11 & 12" exceeds the maximum amount which is not chargeable to tax*

Finance Act, 2017

Section 12 condition to claim Exemption

condition

Timely Filing of Returns

- " *Without Giving effect to* the provisions of Section 11" *Means:*
  - Gross receipts or total income *without considering the expenditure.*
  - *Gross receipts includes Corpus donations* or any other donations referred in section 2(24)(iia)
- Due date for filing of return as per Explanation 2 to section 139
  - Accounts are to be audited : 31st October
  - Otherwise 31st July

condition

Timely Filing of Returns

- Belated Filing of Return of Income
  - Section 139(4) deals with the filing of return of income belatedly.
  - If the return not filed within the due date 139(1)
  - May furnish the return for any previous year at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.
- Section 13(5): Revised return of Income
  - Any omission or wrong statement
  - File revised return before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier





condition

Timely Filing of Returns

- *In case of section 8 company, being assessed as company, the maximum amount not chargeable to tax will not apply.*
- *Consequences of failure to furnish Return of income*
  - *Penalty of Rs. 5000/- u/s 271F (from which year AY 2017 18)*
  - *Penalty at the rate of Rs. 100/- per day of default u/s 272A(2)(e).*

Timely Filing of Returns



Section 13(9)

- Section 11(2) benefits will not be available
  - Statement referred in clause (a) of Section 11(2), form 10, on or before the due date as per 139(1)
  - Filing of return of income on or before the due date 139(1)

Finance Act, 2015
w.e.f.1.4.2016



Time line to File Audit Report



TIME LINE TO FILE AUDIT REPORT

- The audit report in Form No. 10B / 10BB has to be filed One Month prior to the due date of filing of return of Income u/s 139(1) of the Act.
- Due date for filing of return of income u/s 139(4A /4C) :
  - 31st October of the Assessment year.
- Hence the date for Furnishing Audit report:
  - 30th September of the A.Y
- The objective is for pre-filling the income tax returns from the audit report.



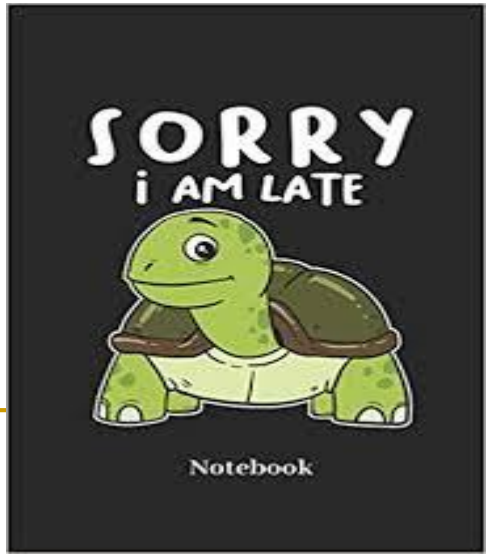
TIME LINE TO FILE AUDIT REPORT

Extension of due date for AY 2020-21 due to COVID -19 Pandemic (As per Aatmanirbhar Bharat Package- Part I dt. 13.05.2020)

- Due date for filing of ROI u/s 139(4A/4C) : 30th November
- Due date for filing Audit report in Form 10B / 10BB: 31st October.



Condonation
Form 10B



Circular No 2/2020

Condonation of Delay in Filing Form 10B

Delay upto 365 Days for AY 2018-19 & Onwards

- Circular No. 02/2020 dated 03.01.2020 for Form 10B
- CIT can condone the delay

Delay More than 365 Days for AY 2018-19 & Onwards

- Circular No. 16/2022 dated 19.07.2022 for Form 10B
- PCCIT /CCIT can condone the delay

Condonation of Delay in Filing Form 10BB

- Circular 19/2020 dated 03.11.2020
  - For years before AY 2018-19
  - Upto 365 days for AY 2018-19 & onwards
- Circular 15/2022 dated 19.07.2022
  - More than 365 days for AY 2018-19 & onwards and upto Three years



New Audit Report 10B/10BB



Audit Report in Form 10B / Form 10BB

Before Amendment

- IT Rules 16CC/17B provides the audit report format
- The format is: Forms 10B/10BB

Rule	Section	Form
Rule 17B	Audit Report in the case of Charitable or Religious Trusts u/s 12A(1)(b)(ii)	Form 10B
Rule 16CC	10(23C)	Form 10BB

Audit Report in Form 10B / Form 10BB

Amendment, 2023
w.e.f.1.4.2023

Income-tax (3rd Amendment) Rules, 2023

- CBDT Income Tax Notification 7/2023 dt. 21/02/2023,
- New Form 10B & 10 BB are applicable to both regimes ie., 10(23C) and Section 11.
- Effective from 01/04/2023
- Audit reports has to be issued only in the New Form 10B and 10BB, in the AY 2023-2024 and onwards

Rule	Section	Above 5 Cr	Any other Case
Rule 17B	12A(1)(b)(ii)	Form 10B	Form 10BB
Rule 16CC	❖ 10(23C) 10th Proviso (b) ❖ 10(23C) (iv), (v), (vi) and (via)	Form 10B	Form 10BB

Both Regimes

Audit Report in Form 10B / Form 10BB

3

Criteria for Form 10B (As prescribed in Rule 17B)

1) the total income of such trust or institution, without giving effect to the provisions of sections 11 and 12 of the Act, exceeds rupees five crores during the previous year; or

2) such trust or institution has received any foreign contribution during the previous year; or

3) such trust or institution has applied any part of its income outside India during the previous year;

Any Other Case

- Form 10BB







Applicability of Audit Report in Form 10B/Form 10BB

Trust	Local Donation	Foreign Contribution	Total Income	Application outside India	Applicable Form

Which One?

Form 10B & 10BB

	Before Amendment	After Amendment
Form 10B: Pages	5 Pages	17 Pages
Form 10B: Clauses	16 Clauses	49 Clauses
Form 10BB: Pages	6 Pages	6 Pages
Form 10BB: Clauses	19 Clauses	32 Clauses

extensive



bulky

Form 10B New Areas of Reporting

Registration Details	Management	Objects
Details of Place where books of accounts maintained	Advancement of General public utility	TDS
Donations Received in Kind	Form 10 BD	Foreign Contributions
Application of Income More than Rs. 50 Lakhs	Specified Violations	
Section 40(a)(ia)	40A(3)	
Section 269 SS	Section 269 ST	Section 269 T











Audit Report 10B





Audit Report

'FORM No. 10B

[See rule 16CC and 17B]

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 Income-tax Act, 1961, in the case of a fund or trust or institution or any university or other educational institution or any hospital or other medical institution.

* I/We have examined the balance sheet of [name of the fund or trust or institution or any university or other educational institution or any hospital or other medical institution] as at ..... and the Income and Expenditure account or Profit and Loss account for the year ended on that date are in agreement with the books of account maintained by the said fund or trust or institution or university or other educational institution or hospital or other medical institution.

* I/We have obtained all the information and explanations to the best of *my/our knowledge and belief which are necessary for the purposes of the audit.

In * my/our opinion, proper books of account have been maintained at the registered office of the above named fund or trust or institution or university or other educational institution or hospital or other medical institution at the address mentioned at serial number 14 of the Annexure :

In *my/our opinion and to the best of *my/our information and according to explanations given to *me/us, the particulars given in the Annexure are true and correct subject to following observations or qualifications—

(a) .....

(b) .....

(c) .....

In * my/our opinion and to the best of * my/our information, and according to information given to * me/us, the said accounts give a true and fair view—

(i) in the case of the balance sheet, of the state of affairs of the above named * fund or trust or institution or university or other educational institution or hospital or other medical institution as on _____;and

(ii) in the case of the Income and Expenditure account or Profit and Loss account, of the income and application or profit or loss of its accounting year ending on .....

subject to the following observations/qualifications—

(a) .....

(b) .....

(c) .....

The prescribed particulars are annexed hereto.

Place .

Date .

Signed Accountant †

Audit Report in Form 10B / Form 10BB

- *Audit Report*
- *Annexure*
- *T/I income, expenses, Assets and Liabilities are covered in the audit report after the examination of books of accounts maintained.*

Two PARTS

Amendment, 2023

Audit Report in Form 10B

TITLE

Audit report under

clause (b) of the tenth proviso to clause (23C) of section 10 and

sub-clause (ii) of clause (b) of subsection (1) of section 12A of the Income-tax Act, 1961,

in the case of a fund or trust or institution or any university or other educational institution or any hospital or other medical institution.

Both Regimes

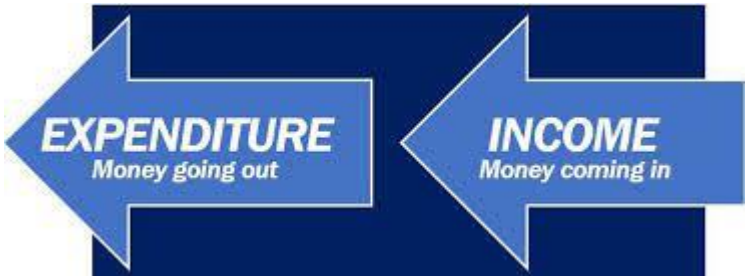
Amendment, 2023

Audit Report in Form 10B

Part I

- * I/We have **examined** the balance sheet of [name of the fund or trust or institution or any university or other educational institution or any hospital or other medical institution] as at ……..
- and the Income and Expenditure account or Profit and Loss account for the year ended on that date
- are in **agreement with the books of account** maintained by
- the said fund or trust or institution or university or other educational institution or hospital or other medical institution.

Adding "I&E" is Appropriate



Amendment, 2023

Audit Report in Form 10B

Part 2

- * I/We have **obtained all the information and explanations** to the best of *my/our knowledge and belief which are necessary for the purposes of the audit.



Amendment, 2023

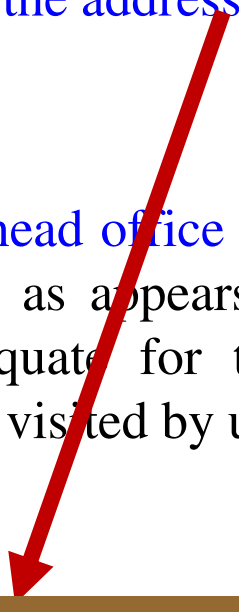
Audit Report in Form 10B

Part 3

- In * my/our opinion, proper books of account have been (maintained at the registered office of the above named fund or trust or institution or university or other educational institution or hospital or other medical institution at the address mentioned at serial number 14 of the Annexure :)

Part 3 OLD

- kept by the head office and the branches of the above named Trust visited by us so far as appears from our examination of the books, and proper Returns adequate for the purposes of audit have been received from branches not visited by us, subject to the comments given below: --



Rule 17AA: Books at RO
Other Places: Intimate AO

Serial Number 14 is, Clause 14, also in Clause 5

Amendment, 2023

Audit Report in Form 10B

Part 4

- In *my/our opinion and to the best of *my/our information and according to explanations given to *me/us, the particulars given in the Annexure are true and correct subject to **following observations or qualifications**—

(a) Place of Books Maintenance: More than 50 places

(b) Salary paid or not to trustees or board members

(c) T/I property used or not by trustees or board members

Correctness



Amendment, 2023

Audit Report in Form 10B

Part 5

- In * my/our opinion and to the best of * my/our information, and according to information given to * me/us, the **said accounts give a true and fair view**—

(i) in the case of the balance sheet, of the state of affairs of the above named * fund or trust or institution or university or other educational institution or hospital or other medical institution as on _____;and

(ii) in the case of the Income and Expenditure account or Profit and Loss account, of the **income and application** or profit or loss of its accounting year ending on ……..

- **subject to the following observations/qualifications**—

(a) ……

(b) ……..

(c) ……..

The prescribed particulars are annexed hereto.

Application includes Revenue and Capital

Amendment, 2023

Audit Report in Form 10B

Part 6

Place .

Date .

Signed Accountant / Name / Membership Number / Address

Notes :

1. *Strike out whichever is not applicable.

2. †This report has to be given by - a chartered accountant within the meaning of the Chartered Accountants Act, 1949 (38 of 1949).

3. Where any of the matters stated in this report is answered in the negative, or with a qualification, the report shall state the reasons for the same.


Thank
you!!