



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
CA I. Daniel Selvaraj***

A PLAN OF THE PRESENTATION

<i>S.No</i>	<i>Contents</i>	<i>Time</i>	<i>Speaker</i>
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

Registration and Renewal

A red rectangular button with rounded corners and a white border. The word "REGISTRATION" is written in white, uppercase, sans-serif font in the center of the button.

REGISTRATION

Why Registration is Necessary?

- ❖ *Section 11: Income from Property held for Charitable or Religious Purposes.*
- ❖ *Section 12: Income of trusts from Contributions.*
- ❖ *To avail exemption under **Section 11 & Section 12** by trust the registration is mandatory.*
- ❖ ***Section 12A(1)(ac)**: Registration is the first condition to claim exemption*
 - **Dr. C.T. Eapen Trust v. ITO [2014] 49 taxmann.com 96 (Cochin - Trib.)**
 - **Manas Sewa Samiti v Add. CIT [2012] 28 taxmann.com 265 (Agra)**

Conditions for Exemptions

Conditions for Exemptions

- ❖ Section 12A speaks about the **conditions** to be met to claim exemption.

Procedure for Registration

- ❖ Section 12A upto 31.05.2007.
- ❖ Section 12AA from 1.6.2007
- ❖ Section 12AB from 1.4.2021 .

An Overview Registration and Renewal

Overview of Registration & Renewal

- ❖ Registration having **Perpetual Validity** has gone
- ❖ All the existing registered T/I **has to Re Register** by filing a fresh application
- ❖ New Registration is valid for 5 years or 3 years
- ❖ Every 5 Years registration renewal is mandatory to claim exemption.
- ❖ A **Unique Registration Number** (URN) will be allotted
 - ❖ An Electronic Data Base

NOTHING
IS
PERMANENT.

Section 12A(1)(a)

Conditions for Applicability of Section 11 & 12

Registration before
1.6.2007

Section	Conditions for Exemption
12 A(1)	Provisions of section 11 & 12 shall not apply in relation to income of any trust or institution unless the following conditions are satisfied:
12 A (1)(a)	Condition 1 <ul style="list-style-type: none"> ➤ Application in the prescribed form (Form 10A) ➤ Before 1.7.1973 or 1 year from the date of creation ➤ Which ever is later ➤ Trust / Institution is registered u/s 12AA
Proviso (i)	➤ PCIT / CIT satisfied with the reasons for delay and records in writing, from the date of creation of the trust or the establishment of the institution
Proviso (ii)	➤ If not satisfied with reason : From the 1 st day of the financial year in which the application is made .
Proviso	<ul style="list-style-type: none"> ➤ Inserted by the Finance Act, 2007, w.e.f.1.6.2007 ➤ Proviso (i) & (ii) does not apply on or after 1.6.2007

Section 12A(1)(aa)

Section	Conditions for Exemption
12 A (1)(aa)	<ul style="list-style-type: none">➤ From 1.6.2007 the application for registration in the prescribed form and manner to PCIT / CIT and registered u/s 12AA
12 A (1)(ab)	<ul style="list-style-type: none">➤ The person in receipt of income has made an application, in a case, registration is granted u/s 12AA or 12A and,➤ Subsequently, it has adopted or undertaken modifications of the objects which do not conform to the conditions of registration,➤ in the prescribed form and manner, within 30 days from the date of said adoption or modification,➤ is registered under section 12AA. <p>(Inserted "The Finance Act, 2017, w.e.f 01.04.2018)</p>

Section 12A(1)(ac)

***Understanding the Section
and Conditions to be complied***

Present

ERA 3: Present



Present

Parota Lines

Section 12A Conditions for Exemptions

Up to 31.05.2007

12A(1)(a)

File application before
1.7.1973 or before the
expiry of a period of 1
year from the date of
creation of trust

12A(1)(a)
Proviso

Exemption is available
**From the date of
creation of the trust** or
from the 1st day of the
financial year in which
the application is
made

From 1.6.2007

From the Assessment
year immediately
following the financial
year in which the
application is made

12A(1)(aa)
Finance Act, 2007

From 1.4.2021

New Provision 12AB

12A(1)(ac)

Finance Act, 2020
w.e.f.01.04.2021

Classifications of Application for Registration purpose

Classification at the time of
Introduction of Act ie.,
01.04.2021

<i>S.No</i>	<i>Section</i>	<i>Particulars</i>
1	12A(1)(ac)(i)	Trust / Institution registered under Erstwhile section 12A / 12AA
2	12A(1)(ac)(ii)	Trust / Institution registered under section 12AB and the period of the said registration is due to Expire
3	12A(1)(ac)(iii)	Trust / Institution provisionally registered under Section 12AB
4	12A(1)(ac)(iv)	Trust / Institution whose registration is inoperative due to the First proviso to section 11(7)
5	12A(1)(ac)(v)	Trust / Institution which has modified the objects in a manner not confirming to the conditions of registration
6	12A(1)(ac)(vi)	Trust / Institution formed before 01 st October 2020 but which has not made an application for registration till the said date
7	12A(1)(ac)(vi)	Trust / Institution formed after 01st October 2020

Section 12A(1)(ac) Inserted vide THE TAXATION AND OTHER LAWS (RELAXATION AND AMENDMENT OF CERTAIN PROVISIONS) ACT, 2020 dated 29-09-2020, w.e.f. 01-04-2021

Classifications for Registration purpose

<i>Section</i>	<i>Particulars</i>
12A(1)(ac)(i)	Trust / Institution registered under Erstwhile section 12A / 12AA.
12A(1)(ac)(ii)	Trust / Institution registered under section 12AB and the period of the said registration is due to Expire
12A(1)(ac)(iii)	Trust / Institution provisionally registered under Section 12AB
12A(1)(ac)(iv)	Trust / Institution whose registration has become inoperative due to the First proviso to section 11(7)
12A(1)(ac)(v)	Trust / Institution which has adopted or undertaken modifications of the objects which do not conform to the conditions of registration

No
Change

12A(1)(ac)(vi)	T/I applies for the first time for Provisional Registration (upto 30.09.2023) (replaced by (vi) (A) or (B)
12A(1)(ac)(vi)(A)	Trust / Institution have not commenced activities
12A(1)(ac)(vi)(B)	Trust / Institution have commenced activities and No income is not exempted earlier

Changed

New

Analysis of Each Classification

Section 12A(1)(ac)(i)

Conditions for Applicability of Section 11 & 12

1.4.2021
New Beginning

Section	Conditions for Exemption
12 A (1)(ac)	<ul style="list-style-type: none">➤ Notwithstanding anything contained in clauses (a) to (ab),➤ the person in receipt of income has made an application in the prescribed form and manner to PCIT or CIT for registration of T/I
12 A (1) (ac)(i)	<ul style="list-style-type: none">➤ Where the T/I is registered u/s 12A or 12AA, within 3 months from the 1st day of April 2021

- ❖ Application to be made online in Form 10A within 3 months from 01.04.2021, ie., 30.06.2021
- ❖ This due date is extended 5 times and the latest is 30.06.2024



12 A (1) (ac)(i):T/I already Registered

<i>Form 10A</i>	<i>Application for Re Registration</i>
Circular No and Date	Due Dates
The Finance Act, 2020	01.04.2021 to 30.06.2021
12/2021 dt 25.06.2021	30.06.2021 to 31.08.2021
16/2021 dt 29.08.2021	31.08.2021 to 31.03.2022
22/2022 dt 01.11.2022	31.03.2022 to 25.11.2022
06/2023 dt 24.05.2023	25.11.2022 to 30.09.2023
07/2024 dt 25.04.2024	30.09.2023 to 30.06.2024

- ❖ As per Rule 17A, **Order to be passed in Form 10AC** and allot Unique Registration Number (URN) having 16 digit, **within 3 Months and valid for 5 years**

Not Applied So far

- ❖ No Application made so far for re registration, Exit Tax will be attracted under Section 115TD, w.e.f. 01.04.2023 (The Finance Act, 2023)
- ❖ Apply for Registration along with **Condonation as per Finance Act 2024**, Section 12A(1)(ac): **proviso inserted after sub clause (vi)**



Renewal of Registration

(Term Registration to Term Registration)

Continuation under 12AB

(On Expiry of Section 12AB Registration)

**Trust or institutions Registered “Normal” after 1.10.2020
& their period of Registration is about to Expire**

<i>Section Reference</i>	<i>Particulars</i>	<i>Time Line & Details</i>
12A(1)(ac)(ii) & 10(23C) (proviso 1) (clause ii)	Time line for filing Application	<p>➤ Trust or Institution Registered u/s 12AB or 10(23C) after 1.10.2020 whose period of Registration of 5 years is about to Expire</p> <p>❖ At least 6 Months prior to Expiry of the period for which registration was originally granted.</p>
12AB(3) & 10(23C)(proviso 9)	Time line for passing the order by PCIT / CIT	<p>➤ Within 6 Months from the end of the Quarter in which the application was received.</p>
12AB(1)(b)(ii)(A) & 10(23C)(proviso 2) (clause ii)(b)(A)	Period of Registration	<p>➤ PCIT / CIT shall pass an order in writing registering the trust or institution for a period of 5 years</p>
	Type of Registration	<p>➤ Term Registration</p>
12AB(1)(b)(i)(A)(B)	Conditions to be checked	<p>➤ Objects, genuineness of activities & Compliance of requirements of any other law.</p>

12 A (1) (ac)(ii)

- Form 10AB to be filed
- The Finance (2) Act, 2019, Section 12AA and **continued in Section 12AB** also
- CIT has to satisfy about the **compliance of any other laws**

Provisional Registration to Term Registration

***Moving from
I 2AB Provisional to I 2AB Term Registration
Section I 2A(1)(ac)(iii)***

Provisional Registration to Term Registration

<i>Section Reference</i>	<i>Particulars</i>	<i>Time Line & Details</i>
12A(1)(ac)(iii) & 10(23C) (proviso 1) (clause iii)	Time line for filing Application	<ul style="list-style-type: none"> ➤ Trusts or Institutions which have received Provisional Registration have to apply for Term Registration ❖ At least 6 Months prior to the Expiry of period of the provisional Registration or ❖ Within 6 Months of Commencement of its Activities, whichever is Earlier
12AB(3) & 10(23C)(proviso 9)	Time line for passing the order by PCIT / CIT	<ul style="list-style-type: none"> ➤ Within 6 Months from the end of the Quarter in which the application was received.
12AB(1)(b)(ii)(A) & 10(23C)(proviso 2) (clause ii)	Period of Registration	<ul style="list-style-type: none"> ➤ PCIT / CIT shall pass an order in writing registering the trust or institution for a period of 5 years
12AB(1)(b)(i)(A)(B)	Conditions to be checked	<ul style="list-style-type: none"> ➤ Objects, genuineness of activities & Compliance of requirements of any other law.
	Type of Registration	<ul style="list-style-type: none"> ➤ Term Registration

Provisional Registration to Term Registration

- ❖ Application has to be made within 6 months of commencement of activities.
- ❖ The term “Activity” is not defined in the income tax act.
- ❖ the genuineness of activities of trust
 - ❖ The Trust has not commenced its Activities even at the end of the Provisional period of registration.
- ❖ Compliance of requirements of any other law.
 - ❖ Trust running a school and recognition to run the school is not renewed.
 - ❖ Society return is not filed properly
 - ❖ FCRA returns are not filed properly
 - ❖ Trust running a Hospital and medical waste is not properly treated.

Provisional Registration to Term Registration

Compliance of requirements of any other law.

Case Study

- ❖ A Section 8 company having share capital of Rs. 100000/-
- ❖ Company incorporated by a trust registered outside India
- ❖ Share capital is shown as “Unpaid”
- ❖ Company has got 12AA registration
- ❖ Company is conducting activities and filing Income tax returns
- ❖ Infusion of share capital to section 8 company is covered under FCRA.
- ❖ Twice the FCRA permission is rejected.
- ❖ **Now What?**



Compliance of requirements of any other law.

Case Law

- ❖ Is it possible for assessing officer to deny exemption to a trust due to non-compliance of other statute?
- ❖ In the case of Kammavari Sangham Vs DDI Tax (Exemptions), (Karn. HC) (2022), 459 ITR 433, held that the assessing officer's view that
- ❖ **capitation fee received by the assessee** is in violation of Karnataka Educational Institution (Prohibitions of Capitation Fee) Act, 1984, **is not sustainable** because it is for the appropriate authority, which deals with said Act to investigate into the matter.
- ❖ Thus, it is clear that **should there be any violation with regard to receipt of capitation fee**, the Assessing Officer **could not have denied the benefit** under Section 11 of the Act so long as the certificate is in force.
- ❖ Accordingly, the registration of the assessee though cancelled has been restored by the court.

Registration Becomes Inoperative

Trusts “Registration becomes Inoperative” -11(7)

<i>Section Reference</i>	<i>Particulars</i>	<i>Time Line & Details</i>
12A(1)(ac)(iv)	Time line for filing Application	<ul style="list-style-type: none"> ➤ All Trusts or Institutions whose registration has become inoperative due to First Proviso to section 11(7) ➤ Such Trust or Institutions shall file an application at least 6 Months Prior to the Commencement of the assessment year from which the said registration is sought to be made operative.
12AB(3)	Time line for passing the order by PCIT / CIT	<ul style="list-style-type: none"> ➤ Within 6 Months from the end of the Quarter in which the application was received.
12AB(1)(b)(ii)(A)	Period of Registration	<ul style="list-style-type: none"> ➤ PCIT / CIT shall pass an order in writing re-registering the trust or institution for a period of 5 years
12AB(1)(b)(i)(A) (B)	Conditions to be checked	<ul style="list-style-type: none"> ➤ Objects, genuineness of activities & Compliance of requirements of any other law.
	Type of Registration	<ul style="list-style-type: none"> ➤ Term Registration

Duel Registration Not Allowed

Duel Registration Not Allowed

Amendment in Section 11(7)

Background

- ❖ Trust or Institution were allowed to possess registrations u/s 12AA / 10(23C) simultaneously.
- ❖ Cancellation of one of the registration will not automatically render the other registration inoperative and hence the Trust / Institution is eligible to take benefit under the surviving registration.

Amendment 2020

- ❖ Section 11(7): Claim exemption under section 12AA or 10(23C)
- ❖ Discretion to choose only one of the above exemptions.

Benefits

- ❖ If the condition under section 13 of the IT Act is violated, it can avail benefit under section 10(23C).
- ❖ Trust having several educational/ Health institutions, it could claim exemption for certain institutions u/s 10(23C) and other institutions u/s 12AA

Dual Registration Not Allowed

Amendment in Section 11(7)

ok

Section 11(7)- First Proviso

- ❖ Registration u/s 12AB shall become inoperative from the date on which the trust or institution is approved u/s 10(23C) or Notified under clause (23EC) or (46) or (46A)
- ❖ Registration shall become “Inoperative”, later of the following:
 - ❖ The date on which the trust is approved under s. 10(23C) or (23EC) or (46) or (46A)
 - ❖ The Proviso has come into force ie., 01.06 2020

Second proviso

- The trust whose registration has become inoperative may apply to get its registration again operative u/s 12AB.
- Once 12AB registration is again granted, approval u/s 10(23C) or (23EC) or (46) or (46A) becomes inoperative.

Duel Registration Not Allowed

Amendment in Section 11(7)

ok

Analysis

- 1st & 2nd Provisos do not apply to Section 10(23C)(iiiab) to (iiiae) where the exemption is granted without any approval to the trust.
- Registration u/s 12AB becomes inoperative by First Proviso and it is not considered as cancelled.
- The crux of the above amendment is that at a time an institution can take benefit of either section 12AB or 10(23C) or (23EC) or (46) or (46A)
- The Finance Act, 2023, Inserted new clause 10(46A) to exempt
 - Any income arising to a body, authority, board, trust or commission, not being a company
 - Which is established or constituted by or under a central or state act
 - With specified purpose and notified by the CG in the official Gazette.
- ❖ **The Finance Act, 2007. w.e.f. 01.04.2008**
- ❖ **(23EC) any income, by way of contributions received from commodity exchanges and the members thereof, of such Investor Protection Fund set up by commodity exchange India, either jointly or separately, as the Central Government may, by notification in the C Gazette, specify in this behalf:**

Modifying the Objects

Trusts Registered “Changing their Object Clause”

<i>Section Reference</i>	<i>Particulars</i>	<i>Time Line & Details</i>
12A(1)(ac)(v)	Time line for filing Application	<ul style="list-style-type: none"> ➤ Trusts or Institutions registered u/s 12AB has adopted or undertaken modifications of the objects which do not confirm to the conditions of registration. ➤ Within a period of 30 Days of Adoption or Modification.
12AB(3)	Time line for passing the order by PCIT / CIT	<ul style="list-style-type: none"> ➤ Within 6 Months from the end of the Quarter in which the application was received.
12AB(1)(b)(ii)(A)	Period of Registration	<ul style="list-style-type: none"> ➤ PCIT / CIT shall pass an order in writing re-registering the trust or institution for a period of 5 years
12AB(1)(b)(i)(A)(B)	Conditions to be checked	<ul style="list-style-type: none"> ➤ Objects, genuineness of activities & Compliance of requirements of any other law.
	Type of Registration	<ul style="list-style-type: none"> ➤ Term Registration

Conditions for Applicability of Section 11 & 12

12 A (1) (ac)(v)	<ul style="list-style-type: none">➤ The Finance Act, 2017, inserted 12A(1)(ab)➤ Getting fresh registration were made mandatory for changing or modification of objects and it is continued.➤ Make fresh application for registration in Form 10AB
	<p>These changes will not be covered and no fresh registration required.</p> <ul style="list-style-type: none">➤ Change in the Name of the organization➤ Change in Registered Office➤ Change in Rules and Regulations

Analysis of Each Classification

Section 12A(1)(ac)(vi) Combining Provisional & Regular

Section 10(23C) First Proviso (iv)(A)
Section 12A(1)(ac)(vi)(A)
80G(5)First Proviso (iv)(A)

Analysis

Combining Registration

Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 amended the provisions

Provisional Registration

- ❖ Section 10(23C) First and Second Proviso, 12A(1)(ac) & 80G(5) first and second proviso
- ❖ New trusts or institutions under both regimes & 80G regime **need to apply for the provisional registration/approval** at least **one month prior to the commencement of the previous year** relevant to the assessment year from which the said registration/approval is sought.
- ❖ Such provisional registration/ approval shall be valid for **a period of 3 years**

Regular Registration

- ❖ Provisionally registered T/I will again need to apply for regular registration **at least six months prior to expiry of period** of the provisional registration or **within six months** of the commencement of activities, **whichever is earlier.**
- ❖ Regular registration valid for a period of 5 years.

Combining Registration

Challenges in the Provisions

- ❖ It has also been brought to the notice that trusts and institutions under both the regimes are facing the **following difficulties**:
- ❖ a) Trusts or institutions **formed or incorporated during the previous year are not able to get the exemption** for that year in which they are formed or incorporated since they **need to apply one month before the previous year** for which exemption is sought.
- ❖ b) Besides trusts or institutions, where **activities have already commenced**, are required to apply for **two registrations** (1st instance provisional and 2nd Instance regular) simultaneously

Combining Registration

Amendments

- ❖ In order to ensure rationalization of the provisions, **it is proposed to allow for direct final registration/approval in such cases.**

To achieve this, following amendments are proposed:

- ❖ The trusts and institutions under the first & second regime & 80G regime shall be allowed to **make application for the provisional approval only before the commencement of activities.**
- ❖ The organizations who has commenced activities can directly apply for regular registration.

Section 10(23C) First Proviso (iv)(A)
Section 12A(1)(ac)(vi)(A)
80G(5)First Proviso (iv)(A)

Additional Points

- **Second condition will not apply** to T/I claims exemptions under **Non approval categories**
 - Section 10(23C)(iiiab) or (iiiac) or (iiiad) or (iiiiae)
-
- What happens if a T/I whose registration is cancelled?
 - **They cannot go for provisional registration** as the activities has been commenced and **they cannot go for direct registration** since their income were exempted earlier
 - **They cannot get registration permanently.**

Section 12A(1)(vi): Fresh Registration

Upto 30.09.2023: All T/I

Two Stage Registration
Compulsory
Provisional
Regular

From 1.10.2023

Activities Not
commenced

at least 1 month
prior to the
commencement of
the previous year
relevant to the
assessment year
from which the said
registration is
sought

Activities commenced

Condition 1

Activities
Commenced

Condition 2

No income or part thereof
of the said T/I has been
excluded from the total
income on account of
applicability of section
10(23C)(iv) or (v) or (vi) or
(via), or 11 or 12,

For any previous year
ending on or before the
date of such application, at
any time **after the
commencement of such
activities**

Trust or Institutions Applying for Registration

Finance Act 2023
w.e.f. 1.10.2023
Asst Year: 2023-24

Before the
Commencement of
Activities

Already Commenced
Activities

Section 10(23C) First
Proviso (iv)(A)
Section 12A(1)(ac)(vi)(A)
80G(5) First Proviso (iv)(A)

Provisional
Registration

Regular Registration

Section 10(23C) First
Proviso (iv)(B)
Section 12A(1)(ac)(vi)(B)
80G(5) First Proviso
(iv)(B)

PCIT shall Examine the
application

Section 10(23C) Second
Proviso (ii)
Section 12AB(1)(b)
80G(5) Second Proviso (ii)

Satisfied about objects & Genuineness of the
activities and compliance of other requirements
provided in the law

No Automatic Registration

Grant / Reject Registration within 6 months

Income tax (Eleventh Amendment) Rules, 2023
dated 23.06.2023
w.e.f.01.10.2023

Finance Act 2023
w.e.f.1.10.2023
Asst Year: 2023-24

“Commencement of Activities”
***Chartered Accountant Also has to
certify in Form 10B & 10BB***

Section 10(23C) First Proviso (iv)(A)
Section 12A(1)(ac)(vi)(A)
80G(5)First Proviso (iv)(A)

Commencement of Activities

- ❖ “Commencement of Activities” is **not defined in the act**
Activities

Whether the following events / activities **can be presumed as commencement of activities** under the act.

- ❖ Incorporation of T/I
- ❖ Applying for PAN
- ❖ Opening of Bank account
- ❖ First time receipt of funds like corpus donation, donation etc.,
- ❖ Application of income for the charitable activities





Thank
you!!