



## FINANCE BILL 2020 – IMPACT ON CHARITABLE AND RELIGIOUS ORGANIZATIONS

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The Finance Bill 2020 tabled by Hon'ble Finance Minister, proposed radical changes pertaining to the exemptions, registrations and taxations in the Non-Government/Charitable/religious/Non profitable sectors. This is perhaps proposed to bring the transparency in receiving and utilizing the fund in the organized manner and to control/eradicate the siphoning and channelizing of the black money through these sectors. Also the objective might be to regulate these sectors in-order to ensure proper utilization of fund in a legal way.

Prior to the proposal in the Finance Bill 2020, all the existing charitable and religious institutions are registered/exempted/approved under the following sections of the Income Tax Act, 1961;

- Section 12A (Organizations registered prior to 1996)
- Sections 12 AA ( Organizations registered after 1996)
- Section 10(23C)
- Section (80G)

As per the Finance Bill 2020, the organizations registered under the above sections are to apply for revalidation within 3 months from 1<sup>st</sup> June 2020 and such validation shall be in force for 5 years from the date of revalidation. The application for the renewal of registration, after 5 years needs to be submitted at-least 6 months prior to the expiry of validity period.

Registration under Section 12AA shall stand inoperative w.e.f. June 01, 2020 & application for registration under Section 12AB shall be made to the Commissioner or Principal Commissioner of the Income tax.

All applications pending under Section 12AA before the Commissioner or Principal Commissioner and for the applications for which no order has been passed, shall deemed to be applications pending under Section 12AB.

Further, in case where Commissioner or Principal Commissioner is satisfied that the charitable/religious trusts institution etc. have not complied with the objects mentioned or any other law, shall cancel the registration of charitable/religious trusts institution etc. after providing the reasonable opportunity of being heard.

Following are the salient impacts of the proposed amendment;

- Centralized database containing the details of all Charitable and religious institutions ( presently available commissionerate wise)
- Government will able to know the going concern status of each organization.
- One Unique identification number shall be allotted to all the Charitable and religious organizations by the Income Tax department.
- The organization can be denied renewal, not only for violation under Income Tax Act, but also for violations under other laws for the purpose of achieving its objectives as set out in the Byelaws of the organization.

New organizations shall apply for a provisional registration, which shall valid for a period of 3 years. And before 6 months of completion of such provisional registration period, the organization has to apply for renewal of registration, which shall be valid for a period of 5 years from the date of such renewal.

As per the new proposal, simultaneous benefit under two registrations shall be not allowed. For example, the organization those are registered under section 12 AA/12A shall not get the benefit u/s 10(46) or Sec (23C). In

other way, the organization having multiple registrations i.e U/s 12 AA/12A, 10(46) or Sec (23C) shall have to apply for revalidation of any one.

In a nut shell, all the existing Institutions having registration U/s 12A or 12AA or 10(23C) or 10(46) shall have to opt for exemption either u/s 10 or 11.

Finance Bill 2020 has provided the time limit within which the Audit report in Form 10B has to be obtained, which is in accordance with the specified date as per Sec.44AB (.e one month prior to the due date for filing of return under subsection (1) of Sec.139) of the Income Tax Act, 1961, and furnish the report of audit by that date.

Like amendments w.r.t registration, the approval of exemptions u/s 80G of the Income Tax Act for the existing approved institutions need to be revalidated and applications for the same shall be made within three months from the date from which the proposed amendments shall come in to force and such validation shall be valid for 5 years. 6 months before the completion of validation term, approval for 80G has again to be applied. In the proposed amendment the concept of perpetuity w.r.t exemption U/s 80G has withdrawn.

However for the new Institutions ( those have not granted exemption U/s 80 G of the Income Tax Act, 1961) the approval shall be given for 3 years and after which the application for revalidation shall be made 6 months before the expiry of 3 years term.

As per the proposed amendment in Financial Bill 2020, the entities receiving Donation to furnish a statement there-of within specified time limit, and to issue a certificate to the Donor/payer and the claim for deduction to the donor may be allowed on the basis of declaration of Donation details of the Assessee.

In case of failure to file the above statements the Charitable/religious trusts institution etc. shall be levied the fees of Rs. 200/- for each day during which the failure continues.

Further, the Assessing office may levy penalty of amount not less than Rs. 10,000/- which may be extended to an amount of Rs. 1,00,000/-.

Similar to Section 80 G of the Act, deductions of cash donation U/S 80GG(A) shall be restricted to Rs.2000/- only.

Amendments proposed in Finance Bill, 2020 with respect to the Charitable and religious Institutions will bring additional burden of compliances in the short run but definitely lead to monitoring of activities of the religious and charitable organizations in a transparent manner. It will also bring down mis-utilisation /illegal utilization of funds and ensure utilization of fund in approved segments.

### **Procedure for fresh registration U/s 12AB of the Income Tax Act,1961 (Extracts from the Finance Bill 2020)**

12. After section 12AA of the Income-tax Act, the following section shall be inserted with effect from the 1<sup>st</sup> day of June, 2020, namely :-

12AB. (1) The Principal Commissioner or Commissioner, on receipt of an application made under clause (ac) of sub-section (1) of section 12A, shall, -

- (a) Where the application is made under sub-clause (i) of the said clause, pass an order in writing registering the trust or institution for a period of five years ;
- (b) Where the application is made under sub-clause (ii) or sub-clause (iii) or sub-clause (iv) or sub-clause (v) of the said clause, -
  - (i) Call for such documents or information from the trust or institution or make such inquiries as he thinks necessary in order to satisfy himself about -
    - (A) The genuineness of activities of the trust or institution; and
    - (B) The compliance of such requirements of any other law for the time being in force by the trust or institutions as are material for the purpose of achieving its objects; and

- (ii) After satisfying himself about the objects of the trust or institution and the genuineness of its activities under item (A), and compliance of the requirements under item (B), of sub-clause (i),-
  - (A) Pass an order in writing registering the trust or institution for a period of five years;
  - (B) If he is not so satisfied, pass an order in writing rejecting such application and also cancelling its registration after affording a reasonable opportunity of being heard ;
- (c) Where the application is made under sub-clause (vi) of the said clause, pass an order in writing provisionally registering the trust or institution for a period of three years from the assessment year from which the registration is sought, and send a copy of such order to the trust or institution.
- (2) All applications, pending before the Principal Commissioner or Commissioner on which no order has been passed under clause (b) of sub-section (1) of section 12AA before the date on which this section has come into force, shall be deemed to be an application made under sub-clause (vi) of clause (ac) of sub-section (1) of section 12A on that date.
- (3) The order under clause (a), sub-clause (ii) of clause (b) and clause (c), of sub-section (1) shall be passed, in such form and manner as may be prescribed, before expiry of the period of three months, six months and one month, respectively, calculated from the end of the month in which application was received.
- (4) Where registration of a trust or an institution has been granted under clause (a) or clause (b) of sub-section (1) and subsequently, the Principal Commissioner or Commissioner is satisfied that the activities or such trust or institution are not genuine or are not being carried out in accordance with the objects or the trust or institution, as the case may be, he shall pass an order in writing cancelling the registration of such trust or institution after affording a reasonable opportunity of being heard.
- (5) Without prejudice to the provisions of sub-section (4), where registration of a trust or an institution has been granted under clause (a) or clause (b) of sub-section (1) and subsequently, it is noticed that –
  - (a) the activities of the trust or the institution are being carried out in a manner that the provisions of section 11 and 12 do not apply to exclude either whole or any part of the income of such trust or institution due to operation of sub-section (1) of section 12; or
  - (b) the trust or institution has not complied with the requirement of any other law, as referred to in item (B) of sub-clause (i) of clause (b) of sub-section (1), 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, then, the Principal Commissioner or the Commissioner may, by an order in writing, after affording a reasonable opportunity of being heard, cancel the registration of such trust or institution.