



Presentation for

**Ernakulam Branch of SIRC of ICAI**

**Topic : Audit of Charitable  
Institutions – Practical Perspective**

**E. Chaitanya**

Date : 19<sup>th</sup> August 2023

# Agenda

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To discuss amendments/changes in the areas of

1. Books of Accounts
2. Audit for Charitable Institutions including select Clauses of Form 10B & 10BB
3. Donations to/by Charitable Trusts
4. Provisions relating to Registration and Cancellation of registration to Trusts
5. Application of Income
6. Taxes applicable to Charitable Trusts
7. Related Party Transactions and Penalty Section relating to those transactions
8. Summary of decision of SC in New Noble Educational Society and Ahmedabad Urban Development Authority

# Books of Accounts

# Books of Accounts & Audit – Recent Amendments

Sec 12A(b) is amended by FA 2022 w.e.f 01-04-2023, AY 2023-24 onwards

**12A** (1) The provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely:—.....

b) *where the total income of the trust or institution as computed under this Act without giving effect to the provisions of sections 11 and 12 exceeds the maximum amount which is not chargeable to income-tax in any previous year,—*

S.No	Section Deals with	Exact wordings of the Section	Rule
1	Books of Accounts	<i>(i) the books of account and other documents have been kept and maintained in such form and manner and at such place, as may be prescribed; and</i>	17AA
2	Audit	<i>(ii) the accounts of the trust or institution for that year have been audited by an accountant defined in the Explanation below sub-section (2) of section 288 <u>before the specified date referred to in section 44AB</u> and the person in receipt of the income furnishes by that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars, as may be prescribed;</i>	17B

# Books of Accounts – Rule 17AA – Form of Books of Accounts

Rule 17AA is inserted from 10<sup>th</sup> August 2022

## Rule 17AA

**Books of account**, including the following, namely: -

- i) cash book;
- ii) ledger
- iii) journal
- iv) copies of bills, whether machine numbered or otherwise serially numbered, wherever such bills are issued by the assessee, and copies or counterfoils of machine numbered or otherwise serially numbered receipts issued by the assessee;
- v) original bills wherever issued to the person and receipts in respect of payments made by the person;
- vi) 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;

### Other Documents

1. Record of all the projects and institutions run by the person containing details of their name, address and objectives;
2. Record of income of the person during the previous year, in respect of,—
3. Record of the application, out of the income of the person during the previous year, namely
4. Record of the application, out of the income of the person out of any previous year preceding the current year, namely
5. Record of voluntary contribution made with a specific direction that they shall form part of the corpus
6. Record of loans and borrowings,
7. Record of properties held by the assessee, with respect to the following, namely,
8. Record of specified persons, as referred to in sub-section (3) of section 13 of the Act,-
9. any other documents containing any other relevant information

# Books of Accounts – Rule 17AA – Manner/Place/Period

S.No	Particulars	Answer	Sub-Rule to Rule 17AA
1	Manner of Keeping and Maintaining the Books of Accounts	In written form or in electronic form or in digital form or as print-outs of data stored in electronic form or in digital form or any other form of electromagnetic data storage device	(2)
2	Place/Address of keeping and Maintaining the Books of Accounts	Registered Office of Trust Or Any other place as decided by a resolution and such address intimated to AO within 7 days from passing of Resolution	(3)
3	Period for keeping and Maintaining	10 years	(4)

# Books of Accounts – Issues involved

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- a) Sec 133A – Survey – Amended from 1<sup>st</sup> April 2017.
- b) Duplication of definition of Books of Accounts
  - 1. Definition in Sec 2(12A) Vs Definition in Rule 17AA ~ Rule 6F
  - 2. Exclusion of Daybook
- c) Maintenance of Other Documents
  - 1. Voluntary Contributions received by Religious Institutions – Issues in maintaining Other Documents
  - 2. Contemporaneous or otherwise
  - 3. Duplication increasing the cost of compliance
- d) No mention about keeping or maintaining of supporting documents
  - 1. PAN/Aadhar
  - 2. Letter of confirmation about donations

# **Audit of Accounts & Select Clauses of Form 10B & Form 10BB**

# Auditor's Report – Rule 16CC for audit under Sec 10(23C) or Rule 17B for audit under Sec 12(1)(b)(ii)

S.No	Applicable Form	Conditions Applicable from AY 2023-24 onwards
1	Form 10B  49 reportable columns + 29 Schedules	<ol style="list-style-type: none"><li>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</li><li>2. Such trust or institution has received any foreign contribution during the previous year; or</li><li>3. Such trust or institution has applied any part of its income outside India during the previous year</li></ol>
2	Form 10BB 34 reportable columns	In all other cases

# Auditor's Reporting on Books of accounts in Form 10BB

Details of Place where books of accounts and other documents have been	11.	(i)	Whether the books of account and other documents have been kept and maintained in the form and manner and at such place as prescribed under rule 17AA by the auditee?	Yes/No
		(ii)	If Yes in (i) above, whether books of account maintained are maintained at registered office?	Yes/No
		(iii)	If No in (ii) above, provide the following details regarding any place other than the registered place where the books of account are maintained	
		(a)	Address of such place where the books are maintained	
		(b)	Date of decision by management to keep account at such place	dd/mm/yyyy
	(c)	Date of intimation to Assessing Officer that accounts are kept at such place under proviso to sub-rule (3) of rule 17AA	dd/mm/yyyy	

# Auditor's Reporting on Books of accounts in Form 10B

Details of Place where books of accounts and other documents have been maintained	14.	(i) Whether the books of account and other documents have been kept and maintained in the form and manner and at such place as prescribed under rule 17AA by the auditee							Yes/No
		(ii) Provide the following details of the books of account and other documents							
	S. No	Nature of Books of Account  <Refer Note\$\$>	Whether maintained by the auditee (Yes/No)	Whether maintained in a computer system, (Yes/No)	Whether maintained at registered office (Yes/No)	If maintained at any place other than the registered place			Whether the books of account have been audited (Yes/No)
					Address of such Place	Date of decision by management to keep account at such place	Date of intimation to Assessing Officer that books of accounts are kept at such place under proviso to sub-rule (3) of rule 17AA		
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

18  
Codes

# Clause 15 and 16 of Form 10B

Advancement of General Public Utility	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	%	
	(C)	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		

# Clause 17 of Form 10B

Business Undertaking	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 previous year which is <b>not</b> 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.	

# Clause 18 of Form 10B

Business Incidental to Objects	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>Commonly applicable Clause</b> <b>– Eg : School/ Hospital/Yoga</b>	
	(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.		

# Clause 31 of Form 10B

31.	Application of Income (excluding application not eligible and reported under serial number 37)				
(i)	Total amount applied for charitable or religious purposes in India during the previous year		+Electronic ( In Rs)	Other than Electronic ( In Rs.)	Amount in Rs.
(a)	Contribution or donation to any other person during the previous year				Amount in Rs.
(b)	Object wise application other than the application provided in (a)				
	(I)	Religious			Amount in Rs.
	(II)	Relief of poor			Amount in Rs.
	(III)	Education			Amount in Rs.
	(IV)	Medical relief			Amount in Rs.
	(V)	Yoga			Amount in Rs.
	(VI)	Preservation of environment (including watersheds, forests and wildlife)			Amount in Rs.
	(VII)	Preservation of monuments or places or objects of artistic or historic interest			Amount in Rs.
	(VIII)	Advancement of any other objects of general public utility			Amount in Rs.
	(IX)	Application which cannot be specifically categorised under (I) to (VIII)			Amount in Rs.
(X)	Total			Amount in Rs.	
(c)	Total application [(a) + (b)(X)]				Amount in Rs.

# Clause 31 of Form 10B

Application of Income

(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
(iii)	Amount which was not actually paid during the previous year [if included in (i)(c)]							Amount in Rs.	
(iv)	Amount actually paid during the previous year which accrued during any earlier previous year but not claimed as application of income in earlier previous year							Amount in Rs.	
(v)	Total amount to be allowed as application [31(i)(c)- 31(iii) +31(iv)]							Amount in Rs.	
(vi)	Bifurcation of application in 31( v) into Revenue or Capital								Amount in Rs.
	(a)	Revenue							Amount in Rs.
	(b)	Capital							Amount in Rs.
(vii)	Amount invested or deposited back in corpus which was applied during any preceding previous year and not claimed as application during that previous year.							Amount in Rs. < fill Schedule Corpus>	
(viii)	Repayment of loan or borrowing during the previous year which was earlier applied and not claimed as application during that prev							Amount in Rs. < fill Schedule LB>	

# Clause 31 of Form 10B

<b>Amount to be disallowed from application</b>		
(ix)	Amount disallowable under thirteenth proviso to clause (23C) of section 10 or Explanation 3 to sub-section (1) of section 11 read with sub-clause (ia) of clause (a) of section 40	Amount in Rs. < fill schedule TDS>
(x)	Amount disallowable under thirteenth proviso to section 10(23C) or Explanation 3 to sub-section (1) of section 11 read with sub-section (3) or (3A) of section 40A	Amount in Rs. < fill schedule 40A(3)/schedule 40A(3A)>
(xi)	Donation 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 - clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 of the Act or any trust or institution referred to in sections 11 or 12 of the Act towards Corpus	Amount in Rs.
(xii)	Donation 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 - clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 of the Act or any trust or institution referred to in sections 11 or 12 of the Act not having	Amount in Rs.

# Clause 31 of Form 10B

(xiii)	Donation to any person other than any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub - clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 of the Act or any trust or institution referred to in sections 11 or 12 of the Act	Amount in Rs.
(xiv)	Application outside India for which approval under proviso to clause (c) of sub-section (1) of section 11 has not been obtained	Amount in Rs.
(xv)	Application outside India for which approval under proviso to clause (c) of sub-section (1) of section 11 has been obtained	
(xvi)	Applied for any purpose beyond the objects of the auditee	Amount in Rs.
(xvii)	Any other disallowance (Please specify)	Amount in Rs.
(xviii)	Total allowable application [ {31(v)+31(vii)+31(viii) – {31(ix) to 31(xvii) } ]	Amount in Rs.
(xix)	Amount deemed to have been applied during the previous year under clause (2) of Explanation 1 to sub-section (1) of section 11	Amount in Rs. < fill Schedule DI >
(xx)	Income accumulated as per the provisions of Explanation 3 to the third proviso to clause (23C) of section 10 or sub-section (2) of section 11	Amount in Rs. < fill Schedule AC >
(xxi)	Income accumulated or set apart for application to charitable or religious purposes or stated objects of trust or institution to the extent it does not exceed 15 % of the income	Amount in Rs.
32.	Taxable Income [30- {31(xviii) to 31(xxi)}]	Amount in Rs.

# Clause 37 of Form 10B

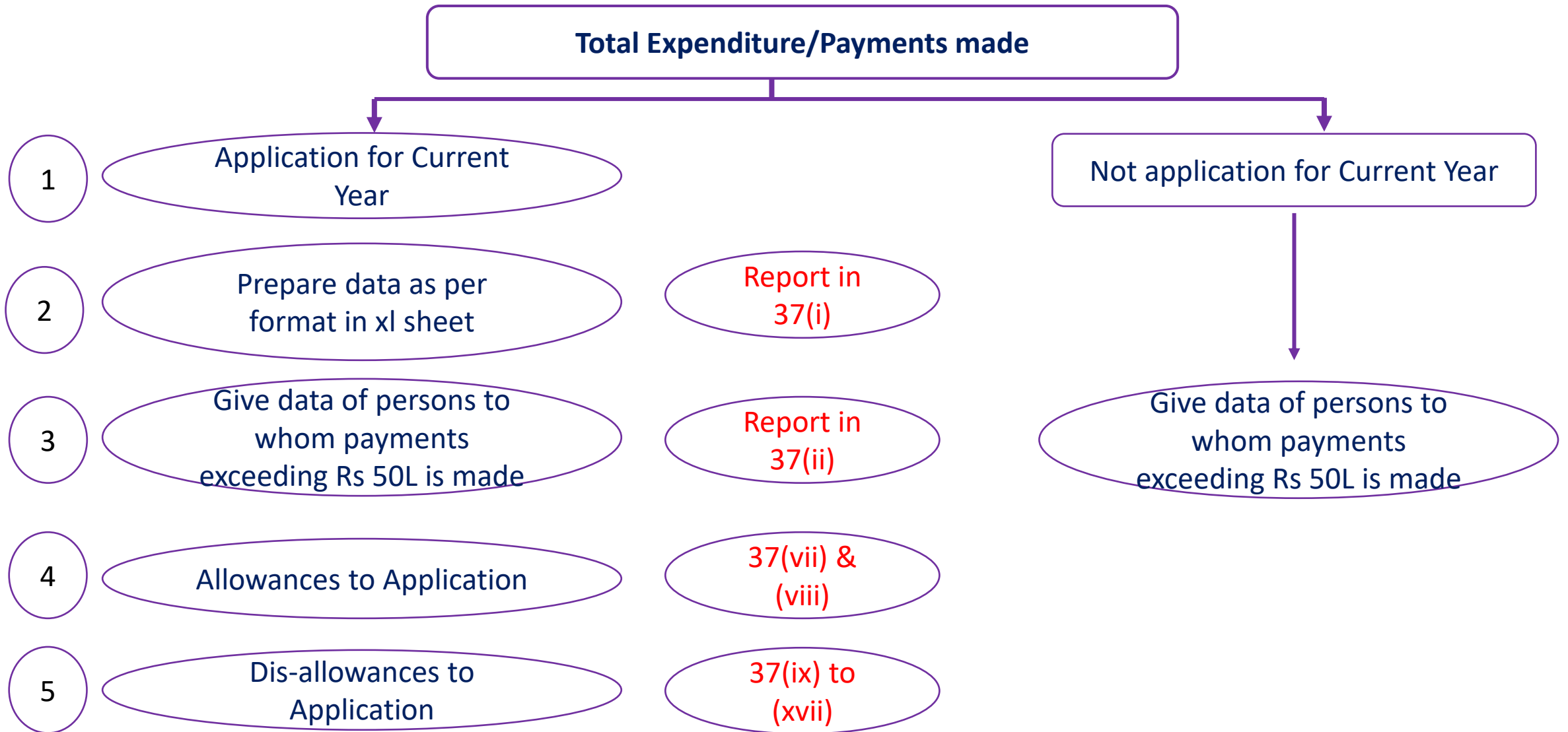
Application of income out of different sources

Application of income out of the following sources during the previous year					
37.	(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>

# Summary of Clause 31 & 37 of Form 10B

S.No	Particulars	Revenue Expenditure				Capital Expenditure				Total
		Electronic Modes	NE Modes	Payable	Total Revenue	Electronic Modes	NE Modes	Payable	Total Capital	
1	Donations									
2	Religious Payments									
3	Relief to Poor									
4	Medical Relief									
5	Education	31(i)								
6	Yoga									
	Preservation of									
7	Environment									
8	Preservation of wildlife									
9	GPU									
	Total	XX	XX	XX	XX	XX	XX	XX	XX	XXX
	Less : Unpaid			-XX				-XX	31(iii)	XX
	Add : LY Unpaid now paid			XX				XX	31(iv)	XX
	Application	XX	XX	XX	XX	XX	XX	XX	XX	XXX
	Add : Replenishment of Corpus				31(vi)				31(vi)	XX
	Add : Repayment of Loans							31(vii)		XX
								31(viii)		XX
	Application including Allowances									XXX

# Summary of Clause 31 & 37 of Form 10B



# Form 10BB on Application of Income

23.	Application of income (excluding application not eligible and reported under serial number 27)		
(i)	Total amount applied for charitable or religious purposes in India during the previous year		Amount in Rs.
(ii)	Amount which was not actually paid during the previous year [if included in (i)]		Amount in Rs.
(iii)	Amount actually paid during the previous year which accrued during any earlier previous year but not claimed as application of income in earlier previous year		Amount in Rs.
(iv)	Total amount to be allowed as application [23(i)- 23(ii) +23(iii)]		Amount in Rs.
(v)	Amount invested or deposited back in corpus which was applied during any preceding previous year and not claimed as application during that previous year		Amount in Rs. < >
(vi)	Repayment of loan or borrowing during the previous year which was earlier applied and not claimed as application during that previous year		Amount in Rs.
Amount to be disallowed from application			
(vii)	Amount disallowable under thirteenth proviso to clause (23C) of section 10 or Explanation 3 to sub-section (1) of section 11 read with sub-clause (ia) of clause (a) of section 40		Amount in Rs. < Fill schedule TDS Disallowed>
(viii)	Amount disallowable under thirteenth proviso to section 10(23C) or Explanation 3 to sub-section (1) of section 11 read with sub-section (3) or (3A) of section 40A		Amount in Rs. < Fill schedule 40A(3)/schedule 40A(3A)>
(ix)	Donation 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 - clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 of the Act or any trust or institution referred to in sections 11 or 12 of the Act towards corpus		Amount in Rs.

# Form 10BB on Application of Income

(ix)	Donation 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 - clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 of the Act or any trust or institution referred to in sections 11 or 12 of the Act towards corpus	Amount in Rs.
(x)	Donation 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 - clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 of the Act or any trust or institution referred to in sections 11 or 12 of the Act <u>not having same objects</u>	Amount in Rs.
(xi)	Donation to <u>any person other than</u> any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub - clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 of the Act or any trust or institution referred to in sections 11 or 12 of the Act	Amount in Rs.
(xii)	Application outside India for which approval under the proviso to clause (c) of sub-section (1) of section 11 has not been obtained	Amount in Rs.
(xiii)	Application outside India for which approval under the proviso to clause (c) of sub-section (1) of section 11 has been obtained	Amount in Rs.
(xiv)	Applied for any purpose <u>beyond the objects of the</u> trust or institution	Amount in Rs.
(xv)	Any other disallowance	Amount in Rs.
(xvi)	Total allowable application [ {23(iv)+23(v)+23(vi) – {23(vii) to 23(xv)} ]	Amount in Rs.
(xvii)	Amount deemed to have been applied during the previous year under clause (2) of Explanation 1 to sub-section (1) of section 11	Amount in Rs.
(xviii)	Income accumulated under the provisions of Explanation 3 to the third proviso to clause (23C) of section 10 or sub-section (2) of section 11	Amount in Rs.
(xix)	Income accumulated or set apart for application to charitable or religious purposes or stated objects of trust or institution to the extent it does not exceed 15 % of the income	Amount in Rs.

# Donations to/by Charitable Trusts

# Donations paid by Charitable Trusts – Recap and changes

S.No	Particulars	Donations out of Accumulation u/s 11 Explanation 1 – 1 year	Donations out of Accumulation u/s 11(2) – 5 years	Other Donations (not related to the objects of the Trust)	Other Donations  <b>AY : 2024-25</b>
1	Governing Section	Explanation 2 to Sec 11(1)	Explanation to Sec 11(2)	Sec 11(1)	Sec 11 - Explanation 4(iii)
2	Payees covered	Trusts covered u/s 10(23C)(iv)/(v)/(vi)/(via) or  Registered u/s 12AA/12AB	Trusts covered u/s 10(23C)(iv)/(v)/(vi)/(via) or  Registered u/s 12AA/12AB	No restriction – All kind of payees	Trusts covered u/s 10(23C)(iv)/(v)/(vi)/(via) or  Registered u/s 12AB
3	Condition for violation	Donation is a Corpus donation to Payee	Donation can be any kind of donation to Payee	No conditions – Can be any kind of donation	No conditions – Can be any kind of donation
4	Consequence	Not considered as application of income	Not considered as application of income	Not considered as application of income	<b>Application only to the extent of 85%.</b>

# Donations paid by Charitable Trusts - Amendments

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- Order of Priority of sections with respect to Donations made by one Charitable Trust to another Charitable Trust ??
  - ❖ Explanation 2 to Sec 11(1) or Explanation to Sec 11(2) – Specific
  - ❖ Explanation 4(iii) to Sec 11 - General
- What kind of donations are covered under Explanation 4(iii) to Sec 11
  - ❖ Registered CT to Registered CT – Out of Income – Any donation
  - ❖ Registered CT to Registered CT – Out of deemed application – Revenue Donation
- Consequences on payment of donations under Explanation 4(iii) to Sec 11

# Donations received by Charitable Trusts

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## Obligations of Charitable Trusts (registered under Sec 80G) at a Glance

- To file Form 10BD before end of 31<sup>st</sup> May of Asst. Year.
- Generate form 10BE and issue the same to donor
- No threshold limit suggested in Form 10BD. So applies for every rupee received as donation
- Consequences of non-filing Form 10BD
  - ❖ Late Fee of Rs 200/- per day subject to max of donations received
  - ❖ Penalty under Sec 271K - Rs 10,000 to Rs 1 Lakh
  - ❖ Donor cannot enjoy exemption of Sec 80G
  - ❖ Be wary of applicability of Sec 115BBC

# Form 10BB – Point No. 12 to 20

Voluntary contributions	12.	Whether auditee has filed Form No. 10BD for the previous year < If No then skip to serial number 14 >	Yes/No
	13.	Sum total of donations reported in Form No. 10BD furnished by the auditee for the previous year	(Amount in Rs.)
	14.	Donations not reported in Form No 10BD/ Not required to fill Form No. 10BD	Amount in Rs.
	15.	Total voluntary contributions received by the auditee during the previous year [13+14]	Amount in Rs.
	16.	Total Foreign Contribution out of the total voluntary contributions stated in 15	Amount in Rs.
	17.	Voluntary Contribution forming part of corpus (which are included in 15)	Amount in Rs.
	18.	Anonymous donations taxable @30% under section 115BBC	Amount in Rs.
	19.	Application outside India for which approval as per the proviso to clause (c) of sub-section (1) of section 11 has been obtained	Amount in Rs.
20.	Voluntary contributions required to be applied by the auditee during the previous year [15-(17+18+19)]	Amount in Rs.	

# Form 10B – Point No. 21 to 23

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				
	(i)	Donations received by fund or trust or institution of the auditee which is approved under clause (b) of sub-section (2) of section 80G		Religious Donations to Approved Religious Trusts	
	(ii)	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 )		Donations to Specified Trusts	
	(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 <u>eligible under sub-section (5) of section 80G</u>  Donations received by normal Charitable Trusts	(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.	(iv)	Donations which could not be reported in Form No 10BD due to <u>non-availability of identification of donor</u> as required under Form No 10BD		Amount in Rs. Different from Anonymous Donations	

# Form 10B - Point No. 23 conti...

Voluntary contributor	(v)	Donations received in kind		Amount in Rs.	
	(vi)	Anonymous Donations referred to in section 115BBC			
		(a)	Amount of anonymous donation <u>not taxable under section 115BBC</u> 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		Wholly for religious purposes
		(c)	Amount of anonymous donation not taxable under section 115BBC on account of applicability of clause (b) of sub-section (2) of section 115BBC		Wholly for Charitable AND religious purposes
		(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	<Please specify the nature>	Amount in Rs.	
	(viii)	Total donation not reported in Form No 10BD [23(i)+23(ii)+23(iii)(d) +23(iv)+23(v)+23(vi)(e)+23(vii)]			Amount in Rs.

# Issues in Audit Report w.r.t 10BD

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- Valuation of Donations received in Kind – FMV or Book value of donor ??
- Donations reported in point no. 23(iv) & 23(vii) of Form 10B – Can be out of donation policy of the Trust.
- ICAI's stand on in Handbook on form 10BD

***7. No Identification number of donor is available with donee:***

*An organisation must put effort to obtain PAN or others IDs from the donor, if any of them is not available then it may amount to anonymous donation as per Section 115BBC of Income Tax Act, 1961*

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# Registration and Cancellation of Registration

# Registration of Charitable Trusts

S.No	Particulars	Governing Section or Rule	Existing Trust	Existing Trust	Existing Trust	Existing Trust	Existing Trust	New Trust	New Trust
			Registered U/s 12A/12AA	Registered U/s 12AB	Having Provisional Registration	Registered U/s 10(23C) or Notified u/s 10(46)	Modification of Objectds	No activities Started	Activities Started
1	Time-Limit for filing of Application	Sec 12A(1)(ac)	On or before 31st March 2022 Circular No. 16/2022	6 months prior to expiry of said period	6 months prior to expiry of PR or 6 months from activities, whichever is earlier	6 months prior to AY from which registration is sought	30 days from date of modification	1 month prior to PY relevant to AY from which registration is sought	Any time after commencement of Activities
2	Exceptions	-	25th November 2022 Circular No. 22/22	-	30th September 2022 Circular No. 8/2022	-	-	Rule 17A(7)	-
3	Form of Application	Rule 17A	Form 10A	Form 10AB	Form 10AB	Form 10AB	Form 10AB	Form 10A	Form 10A
4	Date of granting registration by CIT	12AB(3)	3 months from the end of the month in which application is made	6 months from the end of the month in which application is made	6 months from the end of the month in which application is made	6 months from the end of the month in which application is made	6 months from the end of the month in which application is made	1 month from the end of the month in which application is made	6 months from the end of the month in which application is made
5	Validity	12AB(1)	5 Years AY 2022-23 to AY 26-27	5 Years	5 Years	5 Years	5 Years	3 Years	5 Years
6	Form of Order	Rule 17A(5)	Form 10AC	Form 10AC	Form 10AC	Form 10AC	Form 10AC	Form 10AC	Form 10AC
7	Consequences of Non-registration	-	Sec 115TD(1) r.w subsection (3)(iii)	Sec 115TD(1) r.w subsection (3)(iii)	Sec 115TD(1) r.w subsection (3)(iii)	Can continue with Old registration	Sec 115TD(1) r.w subsection (3)(ii)	Taxable as any other entity	Taxable as any other entity

# Conditions for Cancellation

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For the purposes of this sub-section, the following shall mean "specified violation",—

- a) Income is applied for purposes, other than for the objects of the trust or institution; or
- b) Trust carries on business which is not incidental to the attainment of its objectives or **separate books of account are not maintained in respect of the business which is incidental to the attainment of its objectives**; or
- c) Application of Income from the property held under a trust for private religious purposes, which does not enure for the benefit of the public; or
- d) Application of Income for the benefit of any particular religious community or caste; or
- e) any activity being carried out by the trust or institution—
  - (i) is not genuine; or
  - (ii) is not being carried out in accordance with all or any of the conditions subject to which it was registered; or
- f) **the trust or institution has not complied with the requirement of any other law, which is material for achieving the objects of the Trust 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.**
- g) **The application is not complete or it contains false or incorrect information. (inserted by FA 2023 w.e.f 01-04-2023)**

# Reporting in Form 10BB on conditions for Cancellation

30.	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 12AB and the amount of such violation	Yes/No	Amount in Rs.
(a)	Income of the auditee has been applied, other than for the objects of the trust or institution.	Yes/No	Amount in Rs.
(b)	Whether the auditee has income from profits and gains of business which is not incidental to the 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	

# Consequences upon cancellation of Registration – Sec 115TD

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- Provisions of Sec 115TD would become applicable
  - Sec 115TD(1)(a) - converted into any form which is not eligible for grant of registration u/s 12AA or 12AB, or approval under sub-clause (iv)/ (v)/ (vi)/ (via) of Sec 10 (23C);
  - Conversion into any form not eligible for grant of registration
    - (i) the registration or approval granted to it under section 12AA/Sec 12AB, or sub-clause (iv)/ (v)/ (vi)/ (via) of Sec 10 (23C) has been cancelled; or
    - (ii) it has adopted or undertaken modification of its objects which do not conform to the conditions of registration and it neither not filed or application filed and rejected.
    - (iii) it fails to make an application in accordance with the provisions of clause (i) to (iii) of the first proviso to Sec 10 (23C) or sub-clause(i) to (iii) of Sec 12(1)(ac), within the period specified in the said clauses or sub-clauses, as the case may be, which expires in the said previous year.
- Tax on Accreted income becomes payable at MMR.
- Accreted Income means FMV of all the assets (-) Total value of liabilities on specified date.
- Rule 17CB for the purpose of Valuation of assets

# Application of Income by CTs – Amendments made

# Application of Income – Corpus & Loan

S.No	Particulars	Out of Corpus	Out of Loan or Borrowings
1	General Rule Explanation 4(i)/4(ii) to Sec 11(1)	Application out of Corpus is not treated as application	Application out of any loan or borrowings is not treated as application
2	Exception	Upon replenishment, will be counted as application of income	Upon repayment of such loan or borrowings, amount so repaid will be counted as application of income
3	Conditions for Exceptions to apply	<ol style="list-style-type: none"> <li>1. Investment in forms or modes specified in Sec 11(5).</li> <li>2. No application for purposes outside India.</li> <li>3. No violation of TDS or Cash payments in excess of Rs 10,000</li> <li>4. No violation of Explanation 2 &amp; 5 of Sec 11(1).</li> <li>5. No violation of Sec 13(1)(c)</li> <li>6. No violation to cash basis of accounting</li> </ol>	<ol style="list-style-type: none"> <li>1. No application for purposes outside India.</li> <li>2. No violation of TDS or Cash payments in excess of Rs 10,000</li> <li>3. No violation of Explanation 2 &amp; 5 of Sec 11(1).</li> <li>4. No violation of Sec 13(1)(c)</li> <li>5. No violation to cash basis of accounting</li> </ol>
4	Time period for exception to apply	Replenishment within 5 Years from application out of corpus	Repayment within 5 Years from application out of Loan or borrowings

# Introduction of Sec 13(10) – 1<sup>st</sup> April 2023

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Applicability – Taxation arises on account of

- a) Proviso to Sec 2(15) gets attracted
- b) Books of accounts are not maintained
- c) Audit Report is not obtained or not furnished in time.
- d) Return of Income is not furnished.

Then tax shall be computed after allowing deduction for the expenditure (other than capital expenditure) incurred in India, for the objects of the trust or institution, subject to fulfilment of the following conditions, namely:—

- (a) Such expenditure is not from the corpus
- (b) such expenditure is not from any loan or borrowing;
- (c) claim of depreciation is not in respect of an asset, acquisition of which has been claimed as application of income, in the same or any other previous year; and
- (d) such expenditure is not in the form of any contribution or donation to any person.
- (e) No violation of Sec 40(a)(ia) or Sec 40A(3) or 40A(3A)
- (f) No deduction in respect of any expenditure or allowance or set-off of any loss shall be allowed to the assessee under any other provision of this Act.

# Sec 13(10) – Clause 39 of Form 10B

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	

# Sec 13(10) – Clause 39 of Form 10B

	(i)	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.
	(ii)	Expenditure from any loan or borrowing	Amount in Rs.
	(iii)	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.
	(iv)	Expenditure in the form of contribution or donation to any person.	Amount in Rs.
	(v)	Capital expenditure	Amount in Rs.
	(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-clause (ia) of clause (a) of section 40	Amount in Rs. < fill schedule TDS disallowable >
	(vii)	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-sections 3 or 3A of section 40A	Amount in Rs. < fill schedule 40A(3)/Schedule 40A(3A)>
	(viii)	Any other disallowance	Amount in Rs.
	(ix)	Total expenditure to be disallowed (i)+(ii)+(iii)+(iv)+(v)+(vi)+(vii)+(viii))	Amount in Rs.
(d)		Income chargeable to tax under twenty-second proviso to clause (23C) of section 10 or sub-section (10) of section 13 [ a – b+c(ix) ]	Amount in Rs.

# Other Amendments

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(a) Extension of time for filing for Income Tax Return (Applicable from AY 2023-24)

(b) Deletion of two provisos (2<sup>nd</sup> and 3<sup>rd</sup>) to Sec 12A(2)

Both the provisos were beneficial to the assesses seeking registration u/s 12A/12AA/12AB for the first time.

(c) Application of Income (Applicable from AY 2023-24)

❖ Filing of Form 9A/10 – Reduction of Time Limit

❖ Cash Basis of Accounting for Application

# Forms at a Glance

Form No.	Purpose	Due Date for AY 23-24
Form 9A	Application for accumulation for one year	31 <sup>st</sup> August 2023
Form 10	Application for accumulation of income for 5 years	31 <sup>st</sup> August 2023
Form 10B	Audit Report	30 <sup>th</sup> September 2023
Form 10BB	Audit Report	30 <sup>th</sup> September 2023
ITR 7	Return Form	31 <sup>st</sup> October 2023

# Taxes applicable to Charitable Trusts

# Special Taxes applicable to Charitable Trusts

S.No	Particulars	Anonymous Donations	Accredited Income	Specific Income	Normal Income
1	Section No	115BBC	115TD	115BBI	Sec 164(2)
2	Applicable from Asst. Year	AY 2007-08 onwards	AY 2016-17. Amended from AY 2023-24	AY 2023-24 onwards	From inception
3	Applicable to	Trusts covered under Sec 10(23C)(iiiad), (iii ae), (iv), (v), (vi), (via) or Trusts covered under Sec 11	Trusts covered under Sec 10(23C)(iv), (v), (vi), (via) or Trusts registered under Sec 12AA/12AB.	Trusts covered under Sec 10(23C)(iv), (v), (vi), (via) or Trusts covered under Sec 11	Trusts covered under Sec 10(23C)(iv), (v), (vi), (via) or Trusts covered under Sec 11
4	Tax Rate	30%	MMR	30%	Slab Rates
5	Offence	Donations accepted from persons whose Identity is not known	Violation of 3 conditions mentioned in Sec 115TD.	Earning of Specified Income	Normal Income earned. Eg : Disallowance u/s 40A(3), 40(a)(ia)

# Definition of Specified Income – 115BBI

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Explanation.—For the purposes of this section, "specified income" means—

- (a) 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 this Act; or
- (b) deemed income referred to in Explanation 4 to the third proviso to clause (23C) of section 10, or sub-section (1B) or sub-section (3) 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 the 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 the total income under clause (c) of sub-section (1) of section 13; or
- (e) any income which is not excluded from the total income under clause (c) of sub-section (1) of section 11.

# 115BBI – Clause 33 of Form 10B

Income taxable under section 115BBI				
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 DI	Amount in Rs.
	(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 section 115BBI and the amount of such deemed income?	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.

# 115BBI – Clause 33 of Form 10B

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

# Related Party Transactions & Penalty - Sec 271AAE

# Form 10B - Clause No. 41

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, if allotted	Address of such person	If code 2 selected in column (1) specify the amount of contribution made to the auditee

Specified Person



1. Author ; If Author is HUF, every member thereof
2. Trustee/Member
3. Relative of Author, trustee, Member, founder etc
4. Substantial Contributor
5. Concerns in which above persons have substantial interest

# Form 10B - Clause No. 42

42.	<b>Details of transactions referred to in section 13 (2)</b>	
(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 Schedule SP-a >
(b)	Whether any land, building or other property of the auditee is, or continues to be, made available for the use of any specified person, for any period during the previous year without charging adequate rent or other compensation;	Yes/No < If yes, fill Schedule SP-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 Schedule SP-c >
(d)	Whether the services of the auditee are made available to any specified person during the previous year without adequate remuneration or other compensation;	Yes/No < If yes, fill Schedule SP-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 Schedule SP-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 Schedule SP-f1/f2 >
(g)	Whether any income or property of the auditee is diverted during the previous year in favour of any specified person	Yes/No < If yes, fill Schedule SP-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 substantial interest.	Yes/No < If yes, fill Schedule SP-h >

# Form 10B - Clause No. 42

Schedule SP-a: Whether any part of income or property of the auditee is lent, or continues to be lent, to the specified person during the previous year?

S. No.	Name of specified person	PAN of specified person	Details		Details of Security			Details of interest	
			Nature of income or property which is lent	Amount for which income or property is, or continues to be, lent to specified person for any period during the previous year	Nature of security	Value of security	Value of adequate security	Actual rate of interest that is charged	Adequate rate of interest
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

# Form 10B - Clause No. 42

Schedule SP-b: Details of land, building or other property of the auditee which is, or continues to be, made available during the previous year for use of the specified person, during the previous year :											
S. No.	Name of specified person	PAN of specified person	Details of asset		Duration for which asset is, or continues to be, made available for the use of specified person during the previous year,		Details of rent for the previous year		Details of other compensation for the previous year		
			Nature of asset	Address	From dd/mm/yy	To dd/mm/yyyy	Amount of rent	Adequate rent	Nature	Amount of compensation	Adequate compensation
(1)	(2)	(3)	(4) < land/ building/ other property >	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

Schedule SP-c: Details of salary, allowance or otherwise which is paid to the specified person out of the resources of the auditee for services rendered by him during the previous year						
S. No.	Name of specified person	PAN of specified person	Nature of services rendered by specified person	Details of payment for the previous year		
				Nature of payment	Amount of payment (in Rs)	Reasonable amount for services
(1)	(2)	(3)	(4)	(5)	(6)	(7)

# Form 10B - Clause No. 42

**Schedule SP-d: Details of the services of the auditee are made available to the specified person during the previous year?**

S. No.	Name of specified person	PAN of specified person	Details of services		Details of remuneration for the previous year		Details of compensation for the previous year		
			Nature of services made available	Value of services made available (In Rs.)	Actual amount of remuneration for the service	Adequate remuneration for the service	Nature of compensation for the service	Actual amount of compensation for the service	Adequate compensation
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

# Point No. 42

**Schedule SP- e 1 : Details of any share, security is purchased by or on behalf of the auditee from the specified person during the previous year?**

S. No.	Name of specified person	PAN of specified person	Nature of property purchased	Details of Shares or Security					Details of other property being movable				
				Name of the company/ concern of which the shares are purchased	Number of shares purchased during the previous year	Price of each share/security	Total consideration paid share or security	Adequate consideration for shares or security	Nature of property	Number of property purchased	Price of property	Total consideration paid for property during the previous year	Adequate Consideration
			< Share/ Security/ Other Property >										
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)

# Form 10B - Clause No. 42

Schedule SP- e 2 : Details in case of other property being immovable:								
S. No.	Name of specified person	PAN of specified person	Type of asset	Address of property	Area (in Sq ft)	Stamp duty value	Details of Consideration	
							Amount of consideration paid for asset	Adequate consideration for asset
			< Land/ Residential/ Commercial Property etc)>					

# Form 10B - Clause No. 42

**Schedule SP- f 1: Details of any share, security sold by or on behalf of the trust or institution to a specified person during the previous year?**

S. No.	Name of specified person	PAN of specified person	Nature of property sold	Details of Shares or Security					Details of Other Property being Movable					
				Name of the Company or Concern of which the shares are sold	Number of shares sold during the previous year	Price of each share or security	Total consideration share /security	Adequate consideration for share or security	Nature of movable property	Number of movable properties sold	Price of movable property	Total consideration for property during the previous year	Adequate consideration	
			<Share/ Security/											

# Form 10B - Clause No. 42

## Schedule SP- f 2: Details in case of other property being immovable:

S. No.	Name of specified person	PAN of specified person	Type of asset	Address of property	Area (in Sq ft)	Stamp Duty Value	Details of Consideration	
							Amount consideration for asset	Adequate consideration for asset
			< Land/ Residential/ Commercial Property etc>					

# Form 10B - Clause No. 42

## Schedule SP-g: Details of any income or property which is is diverted during the previous year in favour of any specified person

S No	Name of specified person in whose favor income or property diverted	PAN of specified person	Details of Income or property that is diverted	
			Nature of Income or property that is diverted	Value of income or property that is diverted (In Rs.)
(1)	(2)	(3)	(4)	(5)

# Form 10B - Clause No. 42



**Schedule h : Details of any funds that are, or continue to remain, invested in any concern during the previous year in which the specified person has a substantial interest**

S No	Name of concern	Details of the Concern in which funds are, or continue to remain, invested					Details of substantial interest			
		Address of concern	Amount that is or continues to remain invested in concern during the year (In Rs.)	duration of investment during the previous year		Nature of investment	Income from investment during the year	Name of specified person having substantial interest in concern	PAN of specified person	Nature of substantial interest
From dd/mm/yyyy	To dd/mm/yyyy									
	< Company/ Others >									

# Sec 271AAE – Benefits to Related Persons

S.No	Particulars	Details
1	Applicability of Sec 271AAE	<p>a. Trusts referred to in Sec 10(23C)(iv)/(v)/(vi)/(via) or</p> <p>b. Trusts referred to in Sec 11</p>
2	Offence described in Sec 271AAE	<p>Violation of 21<sup>st</sup> Proviso to Sec 10(23C) by Trusts mentioned in (a) above or</p> <p>Violation of Sec 13(1)(c) by Trusts referred to in Sec 11</p>
3	Consequences of the Violation	<p>Offence committed for 1<sup>st</sup> Time – 100% of income so applied</p> <p>Offence committed for 2<sup>nd</sup> Time or more – 200% of income so applied</p> <p>2<sup>nd</sup> time could be in any subsequent year after previous year in which the offence is committed for 1<sup>st</sup> time.</p>

# **New Noble Educational Society**

## **448 ITR 594**

# NNES – Summary

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- Interpretation of the Word “ Educational Purposes”
- Interpretation of the word “Solely”
- Interpretation of the word “Not for Profit”
- Power of CIT during granting of registration
- Registration under the local charity laws

# NNES – Interpretation of “Solely”

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- The Term “solely” means to the exclusion of all Others.
- In Sec 10(23C)(iiiab), (iiiad) and (vi), the positive condition ‘*solely for educational purposes*’ and the negative injunction ‘*and not for purposes of profit*’ loom large as compulsive mandates, necessary for exemption. The expression ‘solely’ is therefore important. Thus, in the opinion of this court, a trust, university or other institution imparting education, as the case may be, should necessarily have all its objects aimed at imparting or facilitating education. Having regard to the plain and unambiguous terms of the statute and the substantive provisions which deal with exemption, there cannot be any other interpretation.

Para 51

- The trust or educational institution, which seeks approval or exemption, should solely be concerned with education, or education related activities. If, incidentally, while carrying on those objectives, the trust earns profits, it has to maintain separate books of account. **It is only in those circumstances that ‘business’ income can be permitted-provided, as stated earlier, that the activity is education, or relating to education.** The judgment in *American Hotel* (supra) as well as *Queens Education Society* (supra) do not state the correct law, and are accordingly overruled.

Para 60

# NNES – Interpretation of “Solely”

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- A proviso is meant to be an exception to something within the main enactment or to qualify something enacted therein which but for the proviso would be within the purview of the enactment. A proviso cannot be torn apart from the main enactment nor can it be used to nullify or set at naught the real object of the main enactment.

Para 57

- The seventh proviso to Section 10 (23C) (vi) alludes to business and profits (‘being profits and gains of business, unless the business is incidental to the attainment of its objectives and separate books of account are maintained by it in respect of such business’). The interpretation of Section 10 (23C) therefore, is that the trust or educational institution must solely exist for the object it professes (in this case, education, or educational activity only), and not for profit. The seventh proviso however carves an exception to this rule, and permits the trust or institution to record (or earn) profits, provided the ‘business’ which has to be read as the education or educational activity - and nothing other than that - is incidental to the attainment of its objectives (i.e., the objectives of, or relating to, education).
- ‘Incidental’ therefore, means, in the context of the present case, something connected with the activity of education.

Para 58 & 59

# NNES – Registration under Local Laws

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In view of the above discussion, it is held that charitable institutions and societies, which may be regulated by other state laws, have to comply with them just as in the case of laws regulating education (at all levels). Compliance with or registration under those laws, are also a relevant consideration which can legitimately weigh with the Commissioner or other concerned authority, while deciding applications for approval under Section 10 (23C).

Para 70

**Ahmedabad Urban Development  
Authority – Supreme Court  
449 ITR 1**

# Ahmedabad Urban Development Authority - Summary

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1. Tracing the origin of GPU and business activity
2. Determination of characteristics of activities amounting to Trade/Commerce/Business
  - Statutory Authorities
  - Statutory Regulatory Authorities such as ICAI
  - Trade Promotion Bodies
  - State Cricket Associations
3. Distinction between carrying on of Business and Business held under the Trust.
4. Applicability of Sec 11(4A).

# Ahmedabad Urban Development Authority

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- a) Origin of Charity – Sec 2(15)
- b) Hon’ble SC in Surat Art Silk Cloth Manufacturing Association
- c) Insertion of Provisos to Sec 2(15) and insertion of Sec 11(4A)
- d) Hon’ble SC in Thanti Trust – Definition of the word “incidental”

# AUDA – Statutory Authorities

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- a) Whether carrying on “Charitable Purpose” ?
- b) Sale of Goods
  - Supply of Essential Goods or Services like food grains etc
  - Water Supply, Sewage Service, distributing medicines etc
- c) Rendering of Services
  - Charging of fees for development of real-estate
  - Charging of Rent, recovery of charges etc
  - Receipt of Interest
- d) Sale of Land or other properties

Para 190 of the Order

# AUDA – Statutory Regulatory Authorities

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- a) Whether ICAI carrying on “Charitable Purpose” ? If yes, under which Limb ?
- b) Receipts of ICAI being Income – When eligible for exemption
  - Exam fees, application fees from students/members etc
  - Membership Fees
- c) Services rendered by Seed Certification authorities

Para 191-197 & 198-199 of the Order

# AUDA – Trade promotion bodies, Councils, associations

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- a) Effect of decision in Surat Art Silk Mfg Association ?
- b) Receipts of such trade promotion bodies – When eligible for exemption
  - Services in relation to Business
  - Conducting Shows
  - Skill Development and diploma Courses
  - Fees from market surveys/other services
- c) Services rendered by non-statutory bodies/authorities

Para 200 to 206 of the Order

# AUDA – State Cricket Associations

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- a) Purpose of State Cricket Associations – Sports Promotion – Is it Charity ?
- b) IPL Vis-à-vis BCCI or State Cricket Associations
- c) Receipt of fees being
  - ❖ Media Rights
  - ❖ Stadium Advertisement
  - ❖ Ticket Sales
- d) Receipt of Money from BCCI

Para 218 to 237 of the Order

# AUDA – Consequences/after effects

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- a) Pr. CIT Exemptions Vs Servants of People Society – 452 ITR 1 (Supreme Court)
- b) Fernandez Foundation Vs CIT – 145 Taxmann.com 442 (Hyderabad-Trib)
- c) ITO Vs Tiruchirapalli District Bus Operators Association – ITA No. 2819/Chny/2018
- d) Introduction of Sec 10(46A) to the Income Tax Act 1961

## Consequences of New Noble Educational Society

1. UoI Vs Baba Banda Singh Bahadur Education Trust - Civil Appeal No. 10511 of 2013

# Thank you !!!

Disclaimer : The views expressed in the presentation is exclusively that of the author. The participant relying on the presentation is expected to take adequate professional care before implementing the ideas suggested during the presentation. The presenter is in no case liable for any damages incurred by relying on the ideas implemented without adequate consultation.

# Other Documents – Rule 17AA

Record of the application, out of the income of the person during the previous year, namely

(I)	application of income, in India, containing details of amount of application, name and address of the person to whom any credit or payment is made and the object for which such application is made;
(II)	amount credited or paid 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 of the Act or other trust or institution registered under section 12AB of the Act, containing details of their name, address, permanent account number and the object for which such credit or payment is made;
(III)	application of income outside India containing details of amount of application, name and address of the person to whom any credit or payment is made and the object for which such application is made;
(IV)	deemed application of income referred in clause (2) of Explanation 1 of sub-section (1) of section 11 of the Act containing details of the reason for availing such deemed application;
(V)	income accumulated or set apart as per the provisions of the Explanation 3 to the third proviso to clause (23C) of section 10 or sub-section (2) of section 11 of the Act which has not been applied or deemed to be applied containing details of the purpose for which such income has been accumulated;
(VI)	money invested or deposited in the forms and modes specified in sub-section (5) of section 11 of the Act;
(VII)	money invested or deposited in the forms and modes other than those specified in subsection (5) of section 11 of the Act;

# Other Documents – Rule 17AA

Record of the application, out of the income of the person out of any previous year preceding the current year, namely out of the income of the person during the previous year, namely

application out of the income accumulated or set apart containing details of year of accumulation, amount of application during the previous year out of such accumulation, name and address of the person to whom any credit or payment is made and the object for which such application is made;

application out of the deemed application of income referred to in clause (2) of Explanation 1 of sub-section (1) of section 11 of the Act, for any preceding previous year, containing details of year of deemed application, amount of application during the previous year out of such deemed application, name and address of the person to whom any credit or payment is made and the object for which such application is made;

application, other than the application referred in item (I) and item (II), out of income accumulated during any preceding previous year containing details of year of accumulation, amount of application during the previous year out of such accumulation, name and address of the person to whom any credit or payment is made and the object for which such application is made;

money invested or deposited in the forms and modes specified in sub-section (5) of section 11 of the Act;

money invested or deposited in the forms and modes other than those specified in sub-section(5) of section 11 of the Act;

# Other Documents – Rule 17AA

Record of voluntary contribution made with a specific direction that they shall form part of the corpus, in respect of,

(I)	the contribution received during the previous year containing details of name of the donor, address, permanent account number (if available) and Aadhaar number (if available);
(II)	application out of such voluntary contribution referred to in item (I) containing details of amount of application, name and address of the person to whom any credit or payment is made and the object for which such application is made;
(III)	amount credited or paid towards corpus 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 of the Act or other trust or institution registered under section 12AB of the Act, out of such voluntary contribution received during the previous year containing details of their name, address, permanent account number and the object for which such credit or payment is made;
(IV)	the forms and modes specified in sub-section (5) of section 11 of the Act in which such voluntary contribution, received during the previous year, is invested or deposited;
(V)	money invested or deposited in the forms and modes other than those specified in sub-section (5) of section 11 of the Act in which such voluntary contribution, received during the previous year, is invested or deposited;
(VI)	application out of such voluntary contribution, received during any previous year preceding the previous year, containing details of the amount of application, name and address of the person to whom any credit or payment is made and the object for which such application is made;
(VII)	amount credited or paid towards corpus 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 of the Act or other trust or institution registered under section 12AB of the Act, out of such voluntary contribution received during any year preceding the previous year, containing details of their name, address, permanent account number and the object for which such credit or payment is made;
(VIII)	the forms and modes specified in sub-section (5) of section 11 of the Act in which such voluntary contribution, received during any previous year preceding the previous year, is invested or deposited;
(IX)	money invested or deposited in the forms and modes other than those specified in sub-section (5) of section 11 of the Act in which such voluntary contribution, received during any previous year preceding the previous year, is invested or deposited;
(X)	amount invested or deposited back in to such voluntary contribution (which was applied during any preceding previous year and not claimed as application) including details of the forms and modes specified in sub-section (5) of section 11 in which such voluntary contribution is invested or deposited.

# Other Documents – Rule 17AA

Record of Loans and Borrowings, in respect of,

(I)	containing information regarding amount and date of loan or borrowing, amount and date of repayment, name of the person from whom loan taken, address of lender, permanent account number and Aadhaar number (if available) of the lender;
(II)	application out of such loan or borrowing containing details of amount of application, name and address of the person to whom any credit or payment is made and the object for which such application is made;
(III)	application out of such loan or borrowing, received during any previous year preceding the previous year, containing details of amount of application, name and address of the person to whom any credit or payment is made;
(IV)	repayment of such loan or borrowing (which was applied during any preceding previous year and not claimed as application) during the previous year;

# Other Documents – Rule 17AA

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**Record of properties held by the assessee, with respect to the following, namely,—**

In respect of Immovable Properties, containing details of

(i)	nature, address of the properties, cost of acquisition of the asset, <b><u>registration documents of the asset;</u></b>
(ii)	transfer of such properties, the net consideration utilised in acquiring the new capital asset;

In respect of Movable Properties, including the details of the nature and cost of acquisition of asset

# Other Documents – Rule 17AA

Record of specified persons, as referred to in sub-section (3) of section 13 of the Act,-

(I)	Containing details of their name, address, permanent account number and Aadhaar number(if available);
(II)	Transactions undertaken by the fund or institution or trust or any university or other educational institution or any hospital or other medical institution with specified persons as referred to in sub-section (3) of section 13 of the Act containing details of date and amount of such transaction, nature of the transaction and documents to the effect that such transaction is, directly or indirectly, not for the benefit of such specified person;

