

CIRCULAR NO. 2/2020 [F. NO. 197/55/2018-ITA-I], DATED 3-1-2020

Under the provision of section 12A of Income-tax Act, 1961 (hereafter 'Act') where the total income of a trust or institution as computed under the Act without giving effect to the provisions of section 11 and section 12 exceeds the maximum amount which is not chargeable to income tax in any previous year, the accounts of the trust or institution for that year have to be audited by any accountant as defined in the Explanation below sub-section (2) of section 288 and the person in receipt of the income is required to furnish along with the return of income for the relevant assessment year 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.

2. As per Rule 17B of the Income-tax Rules, 1962 (hereafter 'Rules') the audit report of the accounts of such a trust or institution is to be furnished in Form No. 10B. As per Rule 12(2) of the Rules, such audit report is to be furnished electronically. The failure to furnish such report in the prescribed form along with the return of income results in disentitlement of the trust or institution from claiming exemption under sections 11 and 12 of the Act.

3. Representations have been received by the Board/field authorities stating that Form No. 10B could not be filed along with the return of income for A.Y. 2016-17 and A.Y. 2017-18. It has been requested that the delay in filing of Form No. 10B may be condoned. Previously, vide instruction in F.No. 267/482/77-IT(part) dated 9-2-1978, the CBDT had authorized the ITO to accept a belated audit report after recording reasons in cases where some delay has occurred for reasons beyond the control of the assessee.

4. Accordingly, the CBDT issued Circular No. 10/2019 circulated through F.No. 197/55/2018-ITA-I in supersession of earlier circular/Instruction issued in this regard, and with a view to expedite the disposal of applications filed by such trust or institution for condoning the delay in filing Form No. 10B and in the exercise of the powers conferred under section 119(2) of the Act, the Central Board of Direct Taxes *vide* Circular No. 10/2019 dated 23rd May, 2019 and Circular No. 28/2019 dated 27th September, 2019 both issued *vide* F.No. 197/55/2018-ITA-I has directed that :—

- (i) The delay in filing of Form No. 10B for A.Y. 2016-17 and A.Y. 2017-18, in all such cases where the Audit Report for the previous year has been obtained before the filing of return of income and has been furnished subsequent to the filing of the return of income but before the date specified under section 139 of the Act is condoned.
- (ii) In all other cases of belated applications in filing Form No. 10B for years prior to AY. 2018-19, The commissioner of Income-tax are authorized to admit and dispose off by 31-3-2020 such applications for condonation of delay u/s 119(2)(b) of the Act. The Commissioner will while entertaining such belated applications in filing Form No. 10B shall satisfy themselves that the assessee was prevented by reasonable cause from filing such application within the stipulated time.

5. In addition to the above, it has also been decided by the CBDT that where there is delay of upto 365 days in filing Form No. 10B for Assessment Year 2018-19 or for any subsequent Assessment Years, the Commissioners of Income-tax are hereby authorized to admit such belated applications of condonation of delay under section 119(2) of the IT Act and decide on merits.

6. The Commissioners of Income-tax shall, while entertaining such belated applications in filing Form No. 10B, satisfy themselves that the assessee was prevented by reasonable cause from filing such application within the stipulated time.