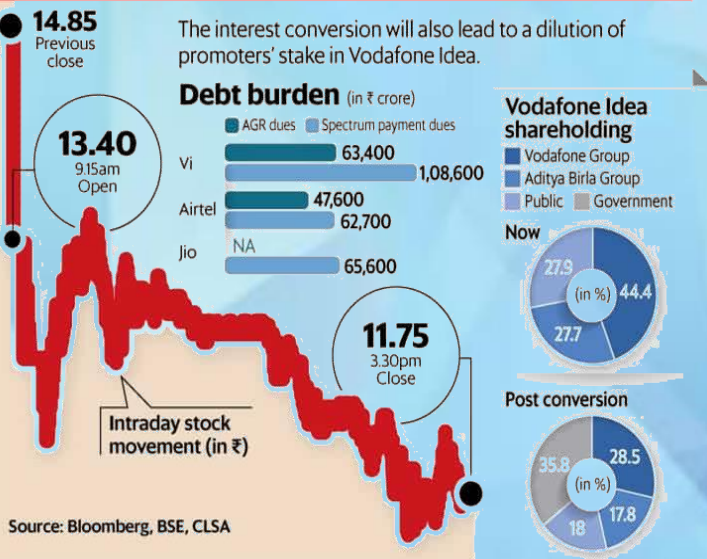


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continuous progress

SWITCHING ROLES



UNION BUDGET 2022-23



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CHAIRMAN'S MESSAGE

Greetings to all.

At the outset, I would like to wish all the members and students on the occasion of "Ratha Saphthami" and my good wishes for plenty of peace and good health. Further, we had contentedly celebrated Republic Day which is a special day to everyone where we show patriotism and pay homage and tribute to people who sacrificed their lives for the freedom of our nation and for the wellbeing of the future generation. In the absence of their movements, we would still have been under slavery.



My term as a chairman is coming to an end, followed by a change in leadership. New leaders are joining to bring in new energy and enthusiasm. I extend my hearty congratulations to all the newly elected office bearers. I hope they will give their best for the betterment of our CA fraternity and our branch. During my term, there were seven committee members, amongst whom four members are retiring. I would like to acknowledge their commitment towards their profession and their contribution to the Mangaluru Branch. I would like to sincerely thank all the members and students for their support and cooperation, without which the smooth management of the office of Mangaluru branch would have been complex and challenging. I would like to appreciate all their hard work and effort that took in accomplishing our every activity in the past year and as we pass on the baton to the new office bearers, I hope we can reach greater heights and flourish our Mangaluru branch.

By now, the results of the CA Final & Foundation Examinations have been announced and I hope all the students receive their results in the highest spirits. At all times, whenever there are exams, Mangaloreans have shown that they are no less than other students from every nook and corner of our nation and I hope this time also you would prove the same and shine brighter in all your future endeavours.

Thank you

CA K S Kamath

Chairman

Mangaluru Branch of SIRC of ICAI

BRANCH ACTIVITIES FOR THE MONTH OF JANUARY 2022

No.	Date	Activities
01	03.01.2022	Committee Meeting
02	26.01.2022	<p>Republic Day Celebration</p> <p>Chief Guest : Col .A.K.Jayachandran, Kannur Guest of Honour: Shri Dinesh Kunder, Superintendent of Customs & Central GST, Mangalore</p> <p>Programme Schedule: 1.Flag Hoisting 2.Stage Programme 3.Felicitaton Of Shri Dinesh Kunder</p>
03	28.01.2022	<p>Virtual CPE Meeting</p> <p>Topic : Ethics & Code of Conduct Including responsibilities of CAs while issuing various certificates Speaker : CA Mohan R Lavi , Bengaluru</p>

BRANCH ACTIVITY GALLERY FOR THE MONTH OF JANUARY 2022

Republic Day Celebration



Felicitation of Shri Dinesh Kunder



Virtual CPE Meet by CA Mohan R. Lavi



UNION BUDGET 2022-23

PROPOSED CHANGES IN IT PROVISIONS APPLICABLE TO TRUST

SECTION 10(23C), 11, 12, 13, 115TD, 115TE & 115TF

In Section 10, clause (23C),—
A. in sub-clauses (iv), (v), (vi) and (via), for the words “prescribed authority” , the words “Principal Commissioner or Commissioner” shall be substituted;
B. in the third proviso,—
(I) after Explanation 1, the following Explanations shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2021, namely:— “Explanation 1A. —For the purposes of this proviso, where the property held under a trust or institution referred to in clause (v) includes any temple, mosque, gurdwara, church or other place notified under clause (b) of sub-section (2) of section 80G, any sum received by such trust or institution as a voluntary contribution for the purpose of renovation or repair of such temple, mosque, gurdwara, church or other place, may, at its option, be treated by such trust or institution as forming part of the corpus of that trust or institution, subject to the condition that the trust or institution,— (a) applies such corpus only for the purpose for which the voluntary contribution was made; (b) does not apply such corpus for making contribution or donation to any person; (c) maintains such corpus as separately identifiable; and (d) invests or deposits such corpus in the forms and modes specified under sub-section (5) of section 11. Explanation 1B. —For the purposes of Explanation 1A, where any trust or institution referred to in sub-clause (v) has treated any sum received by it as forming part of the corpus, and subsequently any of the conditions specified in clause (a) or clause (b) or clause (c) or clause (d) of the said Explanation is violated, such sum shall be deemed to be the income of such trust or institution of the previous year during which the violation takes place.”;
After Explanation 2, the following Explanations shall be inserted with effect from the 1st day of April, 2023 , namely:— “Explanation 3. —For the purposes of determining the amount of application under this proviso, where eighty-five per cent. of the income referred to in clause (a) of this proviso is not applied wholly and exclusively to the objects for which the 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) is established, during the previous year but is accumulated or set apart, either in whole or in part, for application to such objects, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, if the following conditions are complied with, namely:— (a) such person furnishes a statement in such form and manner, as may be prescribed, to the Assessing Officer stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed five years; (b) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5) of section 11; and (c) the statement referred to in clause (a) is furnished on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year: Provided that in computing the period of five years referred to in clause (a), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.

Explanation 4.—Any income referred to in Explanation 3, which—

- (a) is applied for purposes other than wholly and exclusively to the objects for which the 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) is established or ceases to be accumulated or set apart for application thereto; or
- (b) ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5) of section 11; or
- (c) 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; or
- (d) 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),

shall be deemed to be the income of such person of the previous year—

- (i) in which it is so applied or ceases to be so accumulated or set apart under clause (a); or
- (ii) in which it ceases to remain so invested or deposited under clause (b); or
- (iii) being the last previous year of the period, for which the income is accumulated or set apart under clause (a) of Explanation 3, but not utilised for the purpose for which it is so accumulated or set apart under clause (c); or
- (iv) in which it is credited or paid to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution under clause (d).

Explanation 5.—Notwithstanding anything contained in Explanation 4, where due to circumstances beyond the control of the person in receipt of the income, any income invested or deposited in accordance with the provisions of clause (b) of Explanation 3 cannot be applied for the purpose for which it was accumulated or set apart, the Assessing Officer may, on an application made to him in this behalf, allow such person to apply such income for such other purpose in India as is specified in the application by that person and as is in conformity with the objects for which the 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) is established;

and thereupon the provisions of Explanation 4 shall apply as if the purpose specified by that person in the application under this Explanation were a purpose specified in the notice given to the Assessing Officer under clause (a) of Explanation 3:

Provided that the Assessing Officer shall not allow application of such income by way of payment or credit made for the purposes referred to in clause (d) of Explanation 4.”

View:

- **By adding Explanation 1A & 1B, it is proposed to make, Voluntary contributions received towards repair or renovation of temples, churches, Gurudwara etc. by a trust covered u/s 10(23C) clause (v), as fully exempt (corpus donations) at the option of such trust, provided such conditions like utilisation, investments etc., are complied with. Non-compliance of such conditions shall make such receipts taxable in the hands of the trust in the year of violation.**
- **By adding Explanation 3, 4 & 5, the provisions for utilisation funds, procedure for accumulation & utilisation in future years, consequences of non-utilisation of funds, provisions to make an application to AO etc., are made more elaborate and specific.**
- **Accumulation of shortfall in utilisation is allowed to be utilised in next five years and till such time needs to be parked in the prescribed securities.**

- **Non utilisation/ withdrawal of investments/ utilisation for purposes other than the purpose of the trust etc., will make the accumulated amount taxable in the respective years of violations.**
- **Assessing Officer may on an application made by the institutions / trust relax the condition for utilisation, due to reasons beyond its control of the Institution, for such other purposes, , as long as it is in conformity with the objects of the Trust.**

C. The tenth proviso shall be substituted as follows with effect from the **1st day of April 2023:**

Amended:

“Provided also that where the total income of the 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), without giving effect to the provisions of the said sub-clauses, exceeds the maximum amount which is not chargeable to tax in any previous year, such fund or institution or trust or any university or other educational institution or any hospital or other medical institution shall—

(a) keep and maintain books of account and other documents in such form and manner and at such place, as may be prescribed; and

(b) get its accounts audited in respect of that year by an accountant as defined in the Explanation below sub-section (2) of section 288 before the specified date referred to in section 44AB and furnish 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:”

View:

- **The clause which is proposed to be removed (by insertion of new clause) are worded similarly except for the addition of clause (a) which requires the Trust to keep and maintain books of account and other documents in such form and manner and at such place, as may be prescribed**

D. The fifteenth proviso **shall be substituted** as follows:

Amended:

‘Provided also that where the fund or institution referred to in sub-clause (iv) or trust or institution referred to in sub-clause (v) or any university or other educational institution referred to in sub-clause (vi) or any hospital or other medical institution referred to in sub-clause (via) is approved under the said clause and subsequently—

(a) the Principal Commissioner or Commissioner has noticed occurrence of one or more specified violations during any previous year; or
 (b) the Principal Commissioner or Commissioner has received a reference from the Assessing Officer under the second proviso to sub-section (3) of section 143 for any previous year; or
 (c) such case has been selected in accordance with the risk management strategy, formulated by the Board from time to time, for any previous year,
 the Principal Commissioner or Commissioner shall—

(i) call for such documents or information from the fund or institution or trust or any university or other educational institution or any hospital or other medical institution, or make such inquiry as he thinks necessary in order to satisfy himself about the occurrence of any specified violation;

- (ii) pass an order in writing cancelling the approval of such fund or institution or trust or any university or other educational institution or any hospital or other medical institution, on or before the specified date, after affording a reasonable opportunity of being heard, for such previous year and all subsequent previous years, if he is satisfied that one or more specified violation has taken place;
- (iii) pass an order in writing refusing to cancel the approval of such fund or institution or trust or any university or other educational institution or any hospital or other medical institution, on or before the specified date, if he is not satisfied about the occurrence of one or more specified violations;
- (iv) forward a copy of the order under clause (ii) or clause (iii), as the case may be, to the Assessing Officer and such fund or institution or trust or any university or other educational institution or any hospital or other medical institution.

Explanation 1.—For the purposes of this proviso, “specified date” shall mean the day on which the period of six months, calculated from the end of the quarter in which the first notice is issued by the Principal Commissioner or Commissioner, on or after the 1st day of April, 2022, calling for any document or information, or for making any inquiry, under clause (i) expires.

Explanation 2.—For the purposes of this proviso, the following shall mean “specified violation”,—

- (a) where any income of the fund or institution or trust or any university or other educational institution or any hospital or other medical institution has been applied other than for the objects for which it is established; or
- (b) the fund or institution or trust or any university or other educational institution or any hospital or other medical institution 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 it in respect of the business which is incidental to the attainment of its objectives; or
- (c) any activity of the fund or institution or trust or any university or other educational institution or any hospital or other medical institution—
 - (A) is not genuine; or
 - (B) is not being carried out in accordance with all or any of the conditions subject to which it was notified or approved; or
- (d) the fund or institution or trust or any university or other educational institution or any hospital or other medical institution 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.

Explanation 3.—For the purposes of clause (b) of this proviso, where the Assessing Officer has intimated the Central Government or the prescribed authority under the first proviso of sub-section (3) of section 143 about the contravention of the provisions of sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of this clause by any fund or institution or trust or university or other educational institution or any hospital or other medical institution in respect of an assessment year, and the approval granted to such fund or institution or trust or university or other educational institution or any hospital or other medical institution has not been withdrawn, or the notification issued in its case has not been rescinded, on or before the 31st day of March, 2022, such intimation shall be deemed to be a reference received by the Principal Commissioner or Commissioner as on the 1st day of April, 2022, and the provisions of clause (b) of the second proviso to sub-section (3) of section 143 shall apply accordingly for such assessment year.’

View:

- **By substitutions of earlier clause with the new clause the power of the principal commissioner to call for information / documents etc., to satisfy himself that the objects of the trust are fulfilled and to cancel or renew the registration are made more exhaustive. The violations resulting in cancellation of registration are made more specific.**

E. The nineteenth proviso **shall be substituted** as follows:

Amended:

“Provided also that where the fund or institution referred to in sub-clause (iv) or the trust or institution referred to in sub-clause (v) or any university or other educational institution referred to in sub-clause (vi) or any hospital or other medical institution referred to in sub-clause (via) has been approved by the **Principal Commissioner or Commissioner**, and the approval is in force for any previous year, then, nothing contained in any other provision of this section, other than clause (1) thereof, shall operate to exclude any income received on behalf of such fund or institution or trust or university or other educational institution or hospital or other medical institution, as the case may be, from the total income of the person in receipt thereof for that previous year.”

View:

→ **There is no difference in earlier clause and proposed new clause, except for the replacement of word Prescribed authority by Principal Commissioner.**

F. I) after the nineteenth proviso and before Explanation 1, the following provisos **shall be inserted** with effect from **the 1st day of April, 2023**, namely:—

‘Provided also that the 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) shall furnish the return of income for the previous year in accordance with the provisions of sub-section (4C) of section 139, within the time allowed under that section:

Provided also that where the income or part of income or property of 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), has been applied directly or indirectly for the **benefit of any person** referred to in sub-section (3) of section 13, such income or part of income or property shall, after taking into account the provisions of sub-sections (2), (4) and (6) of the said section, **be deemed to be the income of such person of the previous year in which it is so applied:**

Provided also that where 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) violates the conditions of the tenth proviso or twentieth proviso, or where the provisions of the eighteenth proviso are applicable, its income chargeable to tax shall be computed after allowing deduction for the expenditure (other than capital expenditure) incurred in India, for the objects of the fund or institution or trust or the university or other educational institution or the hospital or other medical institution, subject to fulfilment of the following conditions, namely:—

- (a) such expenditure is not from the corpus standing to the credit of the fund or institution or trust or the university or other educational institution or the hospital or other medical institution as on the end of the financial year immediately preceding the previous year relevant to the assessment year for which the income is being computed;
- (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.

Explanation.—For the purposes of determining the amount of expenditure under this proviso, the provisions of sub-clause (ia) of clause (a) of section 40 and sub-sections (3) and (3A) of section 40A shall, mutatis mutandis, apply as they apply in computing the income chargeable under the head “Profits and gains of business or profession”:

Provided also that for the purposes of computing income chargeable to tax under the twenty-second proviso, 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:’.

(vii) after Explanation 2, the following shall be inserted, namely:—

“Explanation 3.—For the purposes of this clause, any sum payable by 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) shall be considered as application of income during the previous year in which such sum is actually paid by it (irrespective of the previous year in which the liability to pay such sum was incurred by the fund or institution or trust or any university or other educational institution or any hospital or other medical institution according to the method of accounting regularly employed by it):

Provided that where during any previous year any sum has been claimed to have been applied by the fund or institution or trust or any university or other educational institution or any hospital or other medical institution, such sum shall not be allowed as application in any subsequent previous year;”.

View:

By introducing the four new provisos, the following clarity is brought into the section :

- **Filing Return of Income** is made mandatory, when the **Income of the trust exceeds the maximum amount which is not chargeable to tax.**
- **Benefits paid / accrued to the related parties, such as author of the trust, substantial contributor, Trustees and their relatives etc., shall be treated as their income in the year in which such benefits are paid subject the provisions of section 13(2), (4) and (6).**
- **Expenditure incurred for the objects of the trust are allowed as deductions.**
- **Non-compliance of TDS provisions, will lead to disallowance of expenditure as per section 40(a)(ia) and cash payments above the specified limit will lead to disallowance of such expenditure u/s 40A(3) and (3A) .**
- **As per Explanation 3, the amount spent shall be considered as application of income during the previous year in which such sum is actually paid**

Section 11 – Income from Property Held for Charitable or Religious Purposes

A. in sub-section (1), after Explanation 3, the following Explanations shall be inserted and **shall be deemed to have been inserted** with effect from the **1st day of April, 2021**, namely:—

“Explanation 3A.—For the purposes of this sub- section, where the property held under a trust or institution includes any temple, mosque, gurdwara, church or other place notified under clause (b) of sub- section (2) of section 80G, any sum received by such trust or institution as voluntary contribution for the purpose of renovation or repair of such temple, mosque, gurdwara, church or other place, may, at its option, be treated by such trust or institution as forming part of the corpus of the trust or the institution, subject to the condition that the trust or the institution—

- (a) applies such corpus only for the purpose for which the voluntary contribution was made;
- (b) does not apply such corpus for making contribution or donation to any person;
- (c) maintains such corpus as separately identifiable; and
- (d) invests or deposits such corpus in the forms and modes specified under sub-section (5) of section 11.

Explanation 3B.—For the purposes of Explanation 3A, where any trust or institution has treated any sum received by it as forming part of the corpus, and subsequently any of the conditions specified in clause (a) or clause (b) or clause (c) or clause (d) of the said Explanation is violated, such sum shall be deemed to be the income of such trust or institution of the previous year during which the violation takes place.”

View:

- **Proposed insertion is similar to the insertion of Explanation 1A and 1B, of section 10(23C)**

B. in sub-section (3), with effect from **the 1st day of April, 2023**,—

in clause (c), the words “or in the year immediately following the expiry thereof” **shall be omitted**;

is not utilised for the purpose for which it is so accumulated or set apart during the period referred to in clause (a) of that sub-section or in the year immediately following the expiry thereof

View:

- As per existing provision, there is a scope for application of funds accumulated by the trust in sixth year. With the omission of last part of the sentence, it is proposed to make the application of the accumulated funds within a period of 5 years.

C. The long line **shall be substituted** as follows:

Amended:

“shall be deemed to be the income of such person of the previous year—

- (i) in which it is so applied or ceases to be so accumulated or set apart under clause (a); or
- (ii) in which it ceases to remain so invested or deposited under clause (b); or
- (iii) being the last previous year of the period, for which the income is accumulated or set apart but not utilised for the purpose for which it is so accumulated or set apart under clause (c); or
- (iv) in which it is credited or paid to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution under clause (d).”

D. after sub-section (7), the following **shall be inserted**, namely:—

“Explanation.—For the purposes of this section, any sum payable by any trust or institution shall be considered as application of income in the previous year in which such sum is actually paid by it (irrespective of the previous year in which the liability to pay such sum was incurred by the trust or institution according to the method of accounting regularly employed by it):

Provided that where during any previous year, any sum has been claimed to have been applied by the trust or institution, such sum shall not be allowed as application in any subsequent previous year.”

View:

With the substitution of the long line, the provisions are

- Exhaustively explained as to when the accumulated amount or the amount received, is treated as income for non-compliances of the provisions the section.
- Actual payment is made a necessity to be considered as application of Income

Section 12A – Conditions for Applicability of Sections 11 and 12

Clause (b) of sub-section (1) **shall be substituted** as follows with effect from **the 1st day of April, 2023**:

Amended:

“(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,—

- (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
- (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 before the specified date referred to in section 44AB 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;”

View:

→ the proposed amendment expects the trust to maintain the books of accounts as prescribed and get it audited and furnish the report in prescribed format.

Section 12AB – Procedure for Fresh Registration

Sub-sections (4)& (5) **shall be substituted** as follows:

Amended:

‘(4) Where registration or provisional registration of a trust or an institution has been granted under clause (a) or clause (b) or clause (c) of sub-section (1) or clause (b) of sub- section (1) of section 12AA, as the case may be, and subsequently,—

- (a) the Principal Commissioner or Commissioner has noticed occurrence of one or more specified violations during any previous year; or
- (b) the Principal Commissioner or Commissioner has received a reference from the Assessing Officer under the second proviso to sub-section (3) of section 143 for any previous year; or
- (c) such case has been selected in accordance with the risk management strategy, formulated by the Board from time to time, for any previous year, the Principal Commissioner or Commissioner shall—
 - (i) call for such documents or information from the trust or institution, or make such inquiry as he thinks necessary in order to satisfy himself about the occurrence or otherwise of any specified violation;
 - (ii) pass an order in writing, cancelling the registration of such trust or institution, after affording a reasonable opportunity of being heard, for such previous year and all subsequent previous years, if he is satisfied that one or more specified violations have taken place;
 - (iii) pass an order in writing, refusing to cancel the registration of such trust or institution, if he is not satisfied about the occurrence of one or more specified violations;
 - (iv) forward a copy of the order under clause (ii) or clause (iii), as the case may be, to the Assessing Officer and such trust or institution.

Explanation.—For the purposes of this sub-section, the following shall mean “specified violation”,—

- (a) where any income derived from property held under trust, wholly or in part for charitable or religious purposes, has been applied, other than for the objects of the trust or institution; or
- (b) the trust or institution 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 such trust or institution in respect of the business which is incidental to the attainment of its objectives; or
- (c) the trust or institution 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; or
- (d) the trust or institution established for charitable purpose created or established after the commencement of this Act, has applied any part of its 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, 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.

(5) The order under clause (ii) or clause (iii) of sub-section (4), as the case may be, shall be passed before the expiry of a period of six months, calculated from the end of the quarter in which the first notice is issued by the Principal Commissioner or Commissioner, on or after the 1st day of April, 2022, calling for any document or information, or for making any inquiry, under clause (i) of sub-section (4).’.

View:

→ **Principal Commissioner / Commissioner’s right to call for information / documents are elaborately explained and violations are made more specific.**

Section 13 – Section 11 not to Apply in Certain Cases

In section 13 of the Income-tax Act, with effect from the **1st day of April, 2023**,—

A. after sub-section (9) and before Explanation 1, the following sub-sections **shall be inserted**, namely:—

‘(10) Where the provisions of sub-section (8) are applicable to any trust or institution or it violates the conditions specified under clause (b) or clause (ba) of sub-section (1) of section 12A, its income chargeable to 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 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;
- (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.

Explanation.—For the purposes of determining the amount of expenditure under this sub-section, the provisions of sub-clause (ia) of clause (a) of section 40 and sub-sections (3) and (3A) of section 40A, shall, mutatis mutandis, apply as they apply in computing the income chargeable under the head “Profits and gains of business or profession”.

(11) For the purposes of computing income chargeable to tax under sub-section (10), 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.’.

View:

- Subsection 8 is applicable for the trust which also undertakes trading activities as a part of advancement of general public utility and the receipts from such activities does not exceed 20% of the total receipt of the trust.
- For non-violations of getting the books of accounts audited and for not filing Income tax return by trust / Institutions and those trust covered under subsection 8 above, the Expenditure incurred for the objects of the trust are allowed as a deductions from such income.

115TD: Tax on accreted income.

In section 115TD of the Income-tax Act, with effect from **the 1st day of April, 2023**, for sub-sections (1), (2) and (3), the **following shall be substituted**, namely:—

1. Notwithstanding anything contained in this Act, where in any previous year, a specified person has—
 - a. converted into any form which is not eligible for grant of registration under section 12AA or section 12AB, or **approval under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10** ;
 - b. merged with any entity other than an entity which is a trust or institution having objects similar to it and registered under section 12AA or section 12AB or **approved under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10**; or
 - c. failed to transfer upon dissolution all its assets to any other **specified person** within a period of twelvemonths from the end of the month in which the dissolution takes place,

then, in addition to the income-tax chargeable in respect of the total income of such specified person, the accreted income of the specified person as on the specified date shall be charged to tax and such specified person shall be liable to pay additional income-tax (herein referred to as tax on accreted income) at the maximum marginal rate on the accreted income.

View:

- The provisions of tax on accreted income is proposed to be made applicable to Institutions approved under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10.
- Any trust registered under section 12AA, AB etc., which is now replaced by any specified person.

2. The accreted income for the purposes of subsection(1) means the amount by which the aggregate fair market value of the total assets of **the specified person**, as on the specified date, exceeds the total liability of such specified person, computed in accordance with the method of valuation, as may be prescribed:

Provided that so much of the accreted income as is attributable to the following asset and liability, if any, related to such asset, shall be ignored for the purposes of sub-section (1), namely:—

- i. any asset which is established to have been directly acquired by the specified person out of its income of the nature referred to in clause (1) of section 10;
- ii. any asset acquired by the specified person during the period beginning from the date of its creation or establishment and ending on the date from which the registration under section 12AA or section 12AB or **approval under clause (23C) of section 10** became effective, if the **specified person** has not been allowed any benefit of sections 11 and 12 or **sub clause(iv) or sub-clause (v) or sub-clause (vi) or sub clause(via) of clause (23C) of section 10** during the said period:

Provided further that where due to the provisions of the first proviso or the second proviso to sub-section (2) of section 12A or the **eighth proviso to clause (23C) of section 10, the benefit of sections 11 and 12, or sub clause(iv) or sub-clause (v) or sub-clause (vi) or sub clause(via) of clause (23C) of section 10** have been allowed to the **specified person** in respect of any previous year or years beginning prior to the date from which the registration under section 12AA or section 12AB or approval under **clause (23C) of section 10** is effective, then, for the purposes of clause (ii) of the first proviso, the registration or approval shall be deemed to have become effective from the first day of the earliest previous year:

Provided also that while computing the accreted income in respect of a case referred to in clause (c) of sub-section (1), assets and liabilities, if any, related touch asset, which have been transferred to any other specified person within the period specified in the said clause, shall be ignored.

View:

- **Subsection 2 explains the meaning of accreted income and computation of accreted income and these Provisions are made applicable to the institutions etc., registered u/s 10(23C), by way of this amendment.**

3. For the purposes of sub-section (1), a specified person shall be deemed to have been converted into any form not eligible for registration under section 12AA or section 12AB or **approval under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10** in a previous year, if,—

- i. the registration or approval granted to it under section 12AA, or section 12AB, or **sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10**, 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—
 - a. has not applied for fresh registration under section 12AA, or section 12AB, or approval under **sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10** in the said previous year; or
 - b. has filed application for fresh registration under section 12AA or, section 12AB, or approval under **sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10** but the said application has been rejected.”;

in sub-sections (4), (5), (6) and (7), for the words “trust” or the institution” and the words “trust or institution “wherever they occur, the words “specified person” shall be substituted;

in the Explanation,—

s

(I) in clause (i), in sub-clause (a), for the word, figures and letters “section 12AB”, the words, figures, letters and brackets “section 12AB, or **approval under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10**” shall be substituted;

(II) after clause (ii), the following clause shall be inserted, namely:—

‘(iia) “specified person” means—

(a) **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; or**

(b) a trust or institution registered under section 12AA or section 12AB;’.

View:

→ **There is no change in the existing provisions except for the additions to bring the Institutions registered u/s 10(23C) under the provisions of section 115TD.**

115TE: Interest payable for non-payment of tax by trust or institution

In section 115TE of the Income-tax Act, with effect from the 1st day of April, 2023,—
(a) in the marginal heading, for the words “trust or institution”, the words “specified person” shall be substituted;
(b) for the words “trust or the institution” at both the places where they occur, the words “specified person” shall be substituted;
(c) the following Explanation shall be inserted, namely:—
‘Explanation.—For the purposes of this section, “specified person” shall have the same meaning as assigned to in clause (iia) of the Explanation to section 115TD.’.

115TF: When trust or institution is deemed to be assessee in default.

In section 115TF of the Income-tax Act, with effect from the 1st day of April, 2023,—
(a) in the marginal heading, for the words “trust or institution”, the words “specified person” shall be substituted;
(b) in sub-section (1), for the words “trust or the institution” at both the places where they occur, the words “specified person” shall be substituted;
(c) the following Explanation shall be inserted, namely:—
‘Explanation.—For the purposes of this section, “specified person” shall have the same meaning as assigned to in clause (iia) of the Explanation to section 115TD.’.



CA. PRASHANTH PAI K AND TEAM
M/S PPK & ASSOCIATES.

Disclaimer: The opinions expressed within this article are the personal opinions of the author. The facts and opinions appearing in the article do not reflect the views of the Managing Committee and ICAI does not assume any responsibility or liability for the same



TEST YOUR KNOWLEDGE

- 1. Advance Pricing Agreement shall be valid for such period not exceeding _____ consecutive previous years as may be specified in the agreement.**
 - a. 5**
 - b. 3**
 - c. 10**
 - d. 2**

- 2. If during any proceeding, it is found that in the books of account maintained by any person there is a false entry or an omission of any entry which is relevant for computation of total income of such person, to evade tax liability, penalty u/s 271AD or is levied**
 - a. A sum equal to the aggregate amount of such false or omitted entry.**
 - b. Rs. 5,000 (subject to maximum of Rs. 1,00,000)**
 - c. 2% of the amount of such entry**
 - d. None of the above**

- 3. Every non-corporate taxpayer to whom the provisions of AMT apply is required to obtain a report from a chartered accountant in Form No. on or before the due date of filing the return of income**
 - a. 29**
 - b. 29A**
 - c. 29B**
 - d. 29C**

4. An application (in quadruplicate) for advance ruling by a resident applicant for determination of his tax liability arising out of one or more transactions valuing Rs. 100 crore or more in total which has been undertaken or is proposed to be undertaken by him is to be made in Form No.....

- a. 34D**
- b. 34DA**
- c. 34E**
- d. 34EA**

5. X Marine Lines Inc., a Singapore company engaged in shipping business collected Rs. 150 lakh towards carrying goods from Chennai Port. Its presumptive income chargeable to tax in India would be.....

- a. 15 lakhs**
- b. 11.25 lakhs**
- c. 12 lakhs**
- d. Nil**



FOR THE PREVIOUS EDITION

- 1. a.**
- 2. a.**
- 3. c.**
- 4. a.**
- 5. a.**

Answers may be sent to icaiebulletin@gmail.com

Correct answers will be out in the next edition.

The names of the first five persons who give correct answers to all the questions, will also be published.

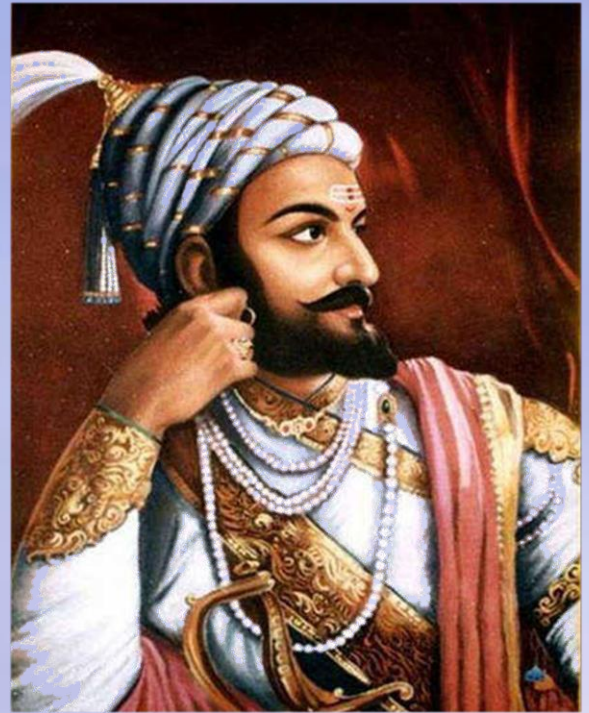
WORDS FROM THE HOLY BOOK

Bhagavad Gita

- ψ **The wise man lets go of all results, whether good or bad and is focused on the action alone.**
- ψ **No one who does good work will ever come to a bad end, either here or in the world come.**
- ψ **Do your work with the welfare of others always in mind.**
- ψ **Fear is not real, never was and never will be. What is real, always was and cannot be destroyed.**
- ψ **The effort never goes to waste, and there is no failure. Even a little effort toward spiritual awareness will protect you from the greatest fear.**
- ψ **Whatever has happened is happened for good, whatever is happening is happening for good, and whatever will happen shall also be good.**
- ψ **Knowing is not enough; we must apply. Willing is not enough; we must do.**
- ψ **For him who has conquered the mind, the mind is the best of friends, but for one who has failed to do so, his mind will remain the greatest enemy.**

Words of Wisdom

- ψ **When you are enthusiastic, the mountain also looks like a clay pile.**
- ψ **Do not think of the enemy as weak, then do not be too scared to feel too strong.**
- ψ **No need to be learned from my own fault. We can learn a lot from others' mistakes.**
- ψ **When you start loving your goals by all your heart and mind, then from the grace of Gods, you will surely get the victory.**
- ψ **Each person should get an education, because, during a war, the thing which not be achieved by strength, that can be achieved by knowledge and tricks and the knowledge comes from education.**
- ψ **A courageous & brave man also bends in the honour of the learned and wise. Because courage also comes from knowledge and wisdom.**
- ψ **One small step taken to reach a small milestone later helps you achieve the bigger goal.**
- ψ **Self-confidence provides strength and Power imparts knowledge. Knowledge provides stability and stability leads to victory.**
- ψ **Time itself changes for those determined to constantly work towards their goal even in the worst of times.**





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