

## Clarification for Charitable Trusts regarding donation to other trusts and correction of Audit Report in applicable Form No. 10B / 10BB

The CBDT has recently issued two circulars, providing clarification and relief to charitable organisations. These are summarized below.

### Clarification on donation by Charitable trusts/Institutions to other Charitable trusts/Institutions ([\*Circular No.03/2024 Dated 6<sup>th</sup> March 2024\*](#))

Donations (other than corpus donations) given by a charitable trust or institution claiming exemption under section 11 or under clauses (iv), (v), (vi) and (via) of section 10(23C) of the Income Tax Act, 1961 ('Act') to other charitable trusts were considered as application of income. The Finance Act, 2023 introduced an amendment with respect to such donations. With effect from AY 2024-25, such donations made by charitable trust to other trusts would be treated as application only to the extent of 85%.

There was no clarity with respect to the taxability of balance 15% of the amount donated to other trusts, considering that such 15% was not available for investment in specified modes and could therefore not be regarded as accumulated. Many representations were made seeking clarification as to whether the balance 15% would be taxable or would be considered as accumulation under section 11(1)(a). In this regard, considering that the funds would not be available with the donor Trust, having been already applied by way of donation, it is now clarified that 15% of the donation is not required to be invested in modes specified under section 11(5) of the Act and would be eligible for exemption.

#### **CNK Comment**

This is a welcome clarification which provides clarity and relief to many trusts (including CSR trusts set up by corporates) or Trusts which are aggregators, which collect funds and disburse to other trusts carrying on activities at grassroot levels to ensure wider coverage of beneficiaries.

### Opportunity to trusts/institutions to file revised Tax Audit Report in applicable Form 10B / 10BB ([\*Circular No. 02/2024 Dated 5<sup>th</sup> March 2024\*](#))

CBDT, vide Notification No. 7/2023 dated 21<sup>st</sup> February 2023 had prescribed revised audit report forms to be furnished by the charitable institutions. AY 2023-24 was the first year of applicability of these revised Forms 10B and 10BB. Further, the Income Tax Rules specified the criteria of either aggregate receipts exceeding INR 5 crore, or receipt of any foreign contribution, or application outside India, to furnish Tax Audit Report in Form 10B. Charitable institutions not covered by the specified criteria were required to furnish Tax Audit Report in Form 10BB.

Being the first year of amendment in the audit form and the applicability criteria, many charitable institutions faced difficulties in identification of applicable form and complying with reporting requirements. Due to misinterpretation of the criteria provided in the amended rules, several charitable institutions inadvertently selected and filed the incorrect audit form. This led to unintentional denial of exemption to such charitable institutions.

The CBDT has now allowed such trusts/institutions which have furnished audit report for AY 2023-24 on or before 31<sup>st</sup> October 2023 in Form 10BB where Form 10B was applicable and vice-versa, to furnish the audit report in the appropriate form on or before 31<sup>st</sup> March 2024.

#### **CNK Comment**

This would safeguard charitable institutions from denial of exemption under sections 10(23C) or 11 due to a bonafide mistake in selection of appropriate form. However, this opportunity to correct the applicable form is available only if the original form was filed on or before 31<sup>st</sup> October 2023.

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