



KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION (R)



CA. Pramod Srihari
President

CA. Vijay Kumar M
Patel Secretary

Date: Monday, October 31, 2022

To,
Smt. Nirmala Sitharaman
Hon. Union Minister of Finance and Corporate Affairs
Government of India

Hon'ble Madam,

SUBJECT: Requesting relaxation in compliances under the new regime for registration/approval of trusts, institutions, funds, universities, hospitals etc.

The Karnataka State Chartered Accountants Association (R) (in short 'KSCAA') is an association of Chartered Accountants, registered under the Karnataka Societies Registration Act, in the year 1957. In the past, we have written to your good selves many times populating various issues, challenges and hardships being faced by taxpayers and suggesting possible solutions to the same. Through this representation, we would like to bring to your kind notice, a few practical issues being faced by taxpayers. For every issue, challenge or hardship highlighted, we have also suggested solutions to address them all.

In order to claim benefits under the provisions of the Act, various assesseees are required to register/obtain approval under sections 12A, 10(23C) and 80G, among other applicable sections. The Finance Act, 2020 has introduced various provisions dealing with fresh registration and re-registration. The initial deadline for renewal/re-registration has been extended on multiple occasions mainly due to the pandemic.

Given the background of the entities and the far-reaching consequences of losing the

No. 67, 1st Floor, West of Chord Road, 2nd Stage, Mahalakshmiapuram, Bangalore 560 086.

Phone : +91 80 2955 2155 | Email : info@kscaa.com | Website : www.kscaa.com

CA. Pramod Srihari
President

CA. Vijay Kumar M
Patel Secretary

benefit of the exemption/deduction due to non-compliance with the new regulations, we herewith represent on the following issues along with recommended solutions:

Summary of the representation	
Issue 1	Many assesseees have not renewed their registration. Request to provide an opportunity to file form 10A as the due date has expired
Issue 2	Many assesseees have not applied for final registrations (conversion from provisional registration). Request to provide an opportunity to file form 10AB wherever the due date of has expired
Issue 3	Suspend the requirement to file form 10AB for the existing Assesseees that have commenced activities before filing form 10A as there is no question of commencement of activities after the issue of form 10AC as the assessee is already functional
Issue 4	To grant fresh registration from the year in which the application is made instead of granting it from the subsequent FY
Reco. 5	Not to invoke section 115TD for failure to renew in the cases referred to above and also in the initial years of operation of the new registration regime

The above issues have been elaborated as under:

Issue 1	
<u>Non-filing of Form 10A</u>	
1.	Lack of awareness initiatives to educate assesseees across the nation on the new legislation and various strict time-bound

CA. Pramod Srihari
President

CA. Vijay Kumar M
Patel Secretary

compliances required thereunder. Given the lack of awareness, even the Income Tax Department has committed an error in processing forms which has been later rectified after considering the representation of our Association (Dated: 13.06.2021 titled 'Anomaly in re-registration of existing trusts or institutions under section 12AB'). The same has been addressed by the issue of Circular 11/2022 dated 03.06.2022 (almost a year of submitting the representation).

2. Many entities have missed the deadline for filing form 10A as the due date (31.03.2022) coincided with various other due dates (multi-year reassessment, assessment, etc) under the provisions of the Act;

3. Since the registration under the old regime is granted indefinitely, until cancelled, many assesseees were not aware of the renewal requirement which was introduced just before the pandemic;

4. As per the reports, more than 60,000 entities have not renewed registrations under sections 12A, 80G and 10(23C) by filing the form.

5. Many assesseees have not selected appropriate clauses (applicable for renewal) while filing form 10A leading to a denial of registration on technical grounds;

6. Assesseees were unable to file form 10A due to technical glitches on the IT portal.

7. Given that the new legislation has unsettled the settled and considering the wide ramifications/financial implications, one more opportunity be granted for renewal;

Recommendation

1. The window for filing form 10A be made available for a limited

period of 3 months;

2. Only the assesseees that have not renewed their registrations after the above window closes, be subject to the consequences of non-renewal;

3. Form 10A filed under the wrong clause may be allowed for modification;

4. Directions to the prescribed authority to not reject the application on technical grounds given the important role these assesseees play in society;

Issue 2

Non-filing of Form 10AB

8. Many entities have missed the deadline for filing form 10AB as the due date (30.09.2022) coincided with various other due dates (tax audit) under the provisions of the Act;

9. The error in processing form 10A by the issue of provisional registration instead of final registration has led to confusion. The delay in addressing the issue (refer sl. No. 1 under 'Issue 1') has further worsened the matter;

10. Many assessee have not selected appropriate (applicable for renewal) clauses while filing form 10A leading to denial of registration on technical grounds;

11. Given that the new legislation which unsettled the settled and considering the wide ramifications/financial implications, one more opportunity be granted for renewal;

Recommendation

5. The window for filing form 10AB be made available for a limited period of 3 months;

6. Only the assessees that have not renewed their registrations, after the above extended period, be subject to the consequences of non-renewal;
7. Form 10AB filed under the wrong clause may be allowed for modification;
8. Directions to the prescribed authority to not reject the application on technical grounds;
9. Since form 10AB is similar to form 10A, the compliance burden can be eased by auto populating the form;

Issue 3

Suspend the requirement to file form 10AB for the existing Assesseees that have commenced activities before filing form 10A

12. Existing assesseees, that have commenced their activities prior to application for fresh registration under the new regime by filing the form 10A, are granted Form 10AC on a provisional basis with the following directions/conditions:

*j. The trust or institution shall apply for registration within **6 months of commencement of the activities** or at least 6 months prior to the expiry of period of provisional registration, whichever is earlier.*

Recommendation

10. Since these entities have already commenced their activities before seeking registration under the Act, they may be granted provisional registration for the previous of 3 years.

11. The requirement to apply for final registration within 6

months of commencement of activities, as contained in form 10AC, may be dispensed with.

12. If the requirement to apply for final registration within 6 months of the commencement of activities is going to be retained, the application of the same to the existing entities may be clarified to avoid confusion.

Issue 4

To grant fresh registration from the year in which the application is made

13. As per the extant provisions, to obtain registration for a particular financial year, the application must be made at least one month prior to the commencement of the relevant previous year. For example, if registration is sought for the FY 2023-24, the application has to be made one month prior to 01.04.2023.

Recommendation

13. Given that the law is evolving, we implore your goodself to consider an appropriate amendments to the relevant provisions (For example: Section 12A(2)(ac) of the Act) to enable the assessee to seek registration for the FY relevant to the date of application and not for the next FY.

Recommendation No.5

Not to invoke section 115TD for failure to renew

14. As the law is in its nascent stage, considering the sweeping changes as have been introduced and given the increased compliances, the rigor of section 115TD of the Act can be relaxed for the above-cited technical lapses for initial period of five years



Since 1957

KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION (R)



CA. Pramod Srihari
President

CA. Vijay Kumar M
Patel Secretary

We are presenting before you the above-enumerated issues, challenges and hardships faced by the trade, industry and professionals under the new registration regime. Wherever required, we have also given recommendations for your kind consideration.

We the members of Karnataka State Chartered Accountants Association, on behalf of the entire Chartered Accountants fraternity and also on behalf of the trade and industry in the state of Karnataka appeal to your good selves to kindly consider our above recommendations on various issues populated as above. Implementation of the above suggestions will be a major step in the direction of 'Ease of doing business'.

Yours sincerely,

For Karnataka State Chartered Accountants Association ®

CA PRAMOD
SRIHARI
President

CA VIJAYKUMAR M
PATEL
Secretary

CA SIDDESH NAGARAJ
GADDI
Chairman Representation
Committee

Cc to:

1. Dr. Bhagwat Kishanrao Karad Hon'ble Minister of State
2. Shri. Pankaj Choudhary, Hon'ble Minister of State for Finance, Government of India
3. Shri. Tarun Bajaj, Hon'ble Revenue Secretary, Department of Revenue, Ministry of Finance, Government of India
4. Shri. Nitin Gupta, Chairman – Central Board of Direct Taxes
5. The Principal CCIT (Exemptions), Delhi
6. Ms. R Ravichandran, Principal CCIT - Karnataka & Goa Region
7. Shri Manian Mathivanan, the Commissioner of Income Tax (Exemptions), Bangalore.

No. 67, 1st Floor, West of Chord Road, 2nd Stage, Mahalakshmi puram, Bangalore 560 086.

Phone : +91 80 2955 2155 | Email : info@kscaa.com | Website : www.kscaa.com