

The Institute of Chartered Accountants of India

(Set up by an Act of Parliament)

Chengalpattu District Branch (SIRC)

(Formerly Known as Kanchipuram District Branch)



E- Newsletter
December 2023

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Chengalpattu District Branch (SIRC) Managing Committee Members 2023-24



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RCM, SIRC



CA. Rekha Uma Shiv
RCM, SIRC

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ARTICLES INVITED FROM MEMBERS

Note: Articles are invited from members for publishing in newsletter. The articles shall be either on the specific subject or a general article. Members can send their articles with Name, Membership Number, Mobile Number, Residential Address, Office Address & Photo to our E-mail id mentioned below:

E-mail id: chengalpattu@icai.org

Note: The views expressed in the articles published are their own views and Chengalpattu District Branch does not endorse or take responsibility.

From the Chairman's Desk

Esteemed Professional Colleagues, Greetings!



Hope all of us would have celebrated the festival month of November 2023. ICAI recently hosted the inaugural Global Professional Accountants Convention (GloPAC) at Gandhinagar, Gujarat, under the theme connecting the Globe, Creating Value. During the event, the new CA India logo was also launched. It reflects the accountancy profession's unwavering commitment towards being a partner in nation building. In this mega event more than 4000 delegates participated from India and other countries. It was a dynamic platform for exchange of ideas through interactive discussions among global and local stakeholders.

We had a feeling that the year 2023 was just begun, but we are at the end of 2023 calendar year. Mandatory CPE hours requirements are to be fulfilled by the members on Calendar Year Basis (from 1st January till 31st December every year) only and the block/rolling period concept of three years is done away with. So for the benefit of our members, our branch has organised more CPE sessions with special topics.

Programs which were carried out in the month of November 2023 are;

- CPE Program - ICAI MSME SAHYOG & Startup SAMVAD on 8th November 2023
- CPE Program on "Practical Approach to handle Faceless Assessment & Appeals" on 16th November 2023 by CA. Adv. Muthu Abirami.T.V
- CPE Program on "Evolving Landscape of Indirect Taxes in Tamil Nadu: Updates on VAT and GST" on 23rd November 2023 by CA. Ganesh Prabhu.B

The following CPE Programs have been planned for the current month.

- CPE Program on "Practical Issues before the disciplinary Committee and NFRA" on 9th December 2023 [2 Hours]
- CPE Program on Workshop on Accounting Standards from 12th December to 15th December 2023, 3 Hours each day [5pm to 8pm]
- CPE Program on Auditing Standards on 19th & 20th December 2023, 4 hours each day [Time : 4pm to 8pm]
- One Day Training program on Tally for CA Members
- One day program on Revolutionize your Accounting Practice (A Workshop using ZOHO Books)
- CPE Program on MDP & Net Working Guidelines for CAs / CA Firms on 21st December 2023. [3 Hours]

**With Best Regards,
CA. Sivagurunathan. T
Chairman
1st December 2023**

Evolving Landscape of Indirect taxes in Tamil Nadu: Updates on VAT & GST



CA. Ganesh Prabhu B

EVOLVING LANDSCAPE OF IDT in TN



Tamil Nadu Taxes (Settlement of Arrears) Act, 2023

Arrears relating to the following Acts are covered under Samadhan Scheme

- The repealed Tamil Nadu General Sales Tax Act, 1959,
- The repealed Tamil Nadu Sales Tax (Surcharge) Act, 1971,
- The repealed Tamil Nadu Additional Sales Tax Act, 1970,
- The repealed Tamil Nadu Tax on Luxuries Act, 1981,
- The repealed Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001,
- The repealed Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990, vii. The repealed Tamil Nadu Entertainments Tax Act, 1939,
- The repealed Tamil Nadu Advertisements Tax Act, 1983,
- The repealed Tamil Nadu Betting Tax Act, 1935,
- The Tamil Nadu Value Added Tax Act, 2006, and
- The Central Sales Tax Act, 1956;

Definitions (Sec. 2)

Tamil Nadu Taxes (Settlement of Arrears) Act, 2023

- **Admitted Tax:**

- a) Tax payable as per return, books of account or tax assessed.
- b) Not included in disputed tax.

- **Arrear of Tax, Penalty, Interest:**

A) Tax includes:

1. Sales Tax
2. Additional sales Tax
3. Surcharge
4. Additional Surcharge
5. Value Added Tax
6. Central Sales Tax
7. Luxury Tax
8. Advertisement Tax
9. Entertainment Tax
10. Entry Tax
11. Betting Tax

B) Penalty**C) Interest**

- Assessment Year upto 2017-18
- Assessment made on/before 31.03.2021
- Pending collection on the date of Filing Application.

(iii) Designated authority: Joint Commissioner (Territorial)

Disputed Tax:

- Against which appeal, revision or review is pending with any authority.
- On the date of commencement of Act.

Eligibility for Settlement (Sec. 4)

- Assessment year upto 2017-18
- Assessment made on / before 31.03.2021
- No appeal should be pending
- If any appeal is pending, leave to withdraw from appeal copy along with application required.
- If any appeal filed by the Government is pending before any authority – on the date of commencement of Act also eligible for scheme
 - a. Tax claimed by the Government.
 - b. Treating as disputed tax, penalty or interest.

Application for settlement (Sec. 5)

- Application in Form I should be made within 4 months from the date of commencement of this Act.
- Along with proof of payment as per sec. 7
- Separate application for each assessment year.

Determination of amount payable (Sec.6)

- Designated authority shall verify the correctness of particulars in application.
- Correctness of amount determined as per sec. 7.
- Demand further amount, if any shortfall
- Rounding off.

Rate applicable in determining amount payable (Sec.7)

- Total arrears of tax, penalty or interest pending to be paid.
- For an assessment year
- On the date of application

PAYMENT UNDER SAMADHAN SCHEME -AT A GLANCE

Annexure -I

Arrears upto Rs.50,000			
Sl. No	Amount to be paid	Amount of waiver	Interest accrued upto the time of waiver under Samadhan Scheme
1	Nil	Fully Waived	Fully waived

PAYMENT UNDER SAMADHAN SCHEME - AT A GLANCE Annexure - II

Arrears from Rs.50,001 to Rs. 10 Lakh			
Sl. No	Amount to be paid	Amount of waiver	*Interest accrued at the time of payment under Samadhan Scheme
1	Flat 20% on the total demand irrespective of the categories (i.e., Tax, penalty and interest)	Remaining 80% on tax penalty and interest	Fully waived

OR					
Sl. No	Category Type	Tax	Penalty	Interest	Interest accrued at the time of payment under Samadhan Scheme
1	Admitted Demand	66% to be paid	10% to be paid	10% to be paid	Fully waived
		Remaining amount to be waived	Remaining Penalty amount to be waived	Remaining Interest amount to be waived	
2	Disputed Demand	33% to be paid	10% to be paid	10% to be paid	Fully waived
		Remaining amount to be waived	Remaining Penalty amount to be waived	Remaining Interest amount to be waived	
3	Interest or penalty or both	-	10% to be paid	10% to be paid	Fully waived
			Remaining amount to be waived	Remaining amount to be waived	

PAYMENT UNDER SAMADHAN SCHEME - AT A GLANCE
Annexure - III

Arrears from Rs. 10 lakh and one rupee to Rs. 1 crore					
Sl. No	Category Type	Tax	Penalty	Interest	*Interest accrued at the time of payment under Samadhan Scheme
1	Admitted Demand	66% to be paid	10% to be paid	10% to be paid	Fully waived
		Remaining amount to be waived	Remaining Penalty amount to be waived	Remaining Interest amount to be waived	
2	Disputed Demand	33% to be paid	10% to be paid	10% to be paid	Fully waived
		Remaining amount to be waived	Remaining Penalty amount to be waived	Remaining Interest amount to be waived	
3	Interest or penalty or both	-	10% to be paid	10% to be paid	Fully waived
			Remaining amount to be waived	Remaining amount to be waived	

PAYMENT UNDER SAMADHAN SCHEME - AT A GLANCE
Annexure - IV

Arrears from Rs. 1 crore and one rupee to Rs. 10 Crore					
Sl. No	Category Type	Tax	Penalty	Interest	*Interest accrued at the time of payment under Samadhan Scheme
1	Admitted Demand	75% to be paid	15% to be paid	20% to be paid	Fully waived
		Remaining amount to be waived	Remaining Penalty amount to be waived	Remaining Interest amount to be waived	
2	Disputed Demand	50% to be paid	15% to be paid	20% to be paid	Fully waived
		Remaining amount to be waived	Remaining Penalty amount to be waived	Remaining Interest amount to be waived	
3	Interest or penalty or both	-	15% to be paid	20% to be paid	Fully waived
			Remaining amount to be waived	Remaining amount to be waived	

PAYMENT UNDER SAMADHAN SCHEME - AT A GLANCE
Annexure - V

Arrears above Rs. 10 Crore and one rupee					
Sl. No	Category Type	Tax	Penalty	Interest	*Interest accrued at the time of payment under Samadhan Scheme
1	Admitted Demand	90% to be paid	15% to be paid	30% to be paid	Fully waived
		Remaining amount to be waived	Remaining Penalty amount to be waived	Remaining Interest amount to be waived	
2	Disputed Demand	60% to be paid	15% to be paid	30% to be paid	Fully waived
		Remaining amount to be waived	Remaining Penalty amount to be waived	Remaining Interest amount to be waived	
3	Interest or penalty or both	-	15% to be paid	30% to be paid	Fully waived
			Remaining Interest amount to be waived	Remaining amount to be waived	

Total waiver of certain amount (Sec. 8)

- Total arrears of tax, penalty or interest to be paid
- Rs. 50,000 or less
- For an assessment year
- On the date of commencement of Act
- Fully waived

Restriction (Sec. 9)

No arrears payable by

- Input Tax Credit
- Excess amount
- Refunded

Settlement of arrears and issue of certificate (Sec.10)

- Issue a certificate of settlement in Form V
- Separate certificate for each application.
- If any appeal filed by the Government, shall be withdrawn for which certificate of settlement issued.
- may refuse to pass settlement order with reasonable opportunity

- Designated authority may modify the certificate within 90 days from the date of issue. (rectify error apparent on the face of record)
 - (i) without affecting the applicant
 - (ii) if it is adversely affecting the applicant, there should be a reasonable opportunity.

Appeal (Sec.11)

- Appeal before Additional Commissioner (Non-GST)
- Within a period of 30 days from receipt of certificate of settlement order
- Confirm / set aside / remand

Revision:

- CCT on his own motion
- Order in Sec 10/ Sec 11
- modify / annul/ reverse / or remand
- with reasonable opportunity

Bar on re-opening of settled case (Sec.13)

- Certificate of settlement u/s 10 –final
- Shall not be reopened in any proceeding

Revocation of certificate (Sec.14)

- Revocation of certificate
 - a) Suppressing any material information or particular
 - b) Furnishing any incorrect or false information
- Within the period of 2 years from date of issue of certificate of settlement of arrears
- Recorded in writing
- Reasonable opportunity

Information to be sent to authorities under relevant Act (Sec.15)

- Fact of making application (Sec. 5)
- Certificate of settlement (Sec. 10)
- Rectification of any error on the face of record (10(3))
- Revocation of certificate (Sec. 14)
- any related other matters
- Addressed to
 - A) Assessing Authority
 - B) Appellate Authority
 - C) Revisional Authority
 - D) Tribunal
 - E) Court

Discussion in Filing of Form 10B and 10BB Under Income Tax ACT



CA. Rajasekharan P

Introduction:

- All trusts, NPOs, NGOs, universities, institutions and hospitals registered u/s 12A and 10(23C) of the income-tax Act, 1961, are required to file tax audit report in Form 10B/10BB when the gross receipts exceed the taxable limit as stipulated under the Income Tax Act, 1961. The audit report in Form 10B was first introduced vide Income-tax (2nd Amendment) Rules, 1973 w.e.f April 1, 1973 rule 17B and Form 10B were inserted to the Income-tax Rules, 1962 (the Rules) for this purpose. Since then the Form 10B has undergone changes.
- The New Form 10B and its subsect 10BB were notified on 21.2.2023. the significant change between the old form and new form is that in the old form there was no assertions to correctness of particulars but in the new form, the Auditor has to report not only true and fair view but also certification of true and correctness of the particulars furnished in the annexures.
- It is to be noted that all trusts were previously treated with respect and benevolence and hence the exemptions from the gross receipts being taxed subject to being used for the charitable purposes. Of late, all trusts are being treated on par with business entities and monitored due to the large sums of funds collected by them and foreign contributions received by them are closely scrutinized. They are also being monitored whether funds are being utilized for the purpose for which they were collected given their tax free status.
- Discussion of filing of 10B and 10BB, considering the complexities and various issues require one day seminar and discussion for two hours in the evening is too short time to cover all issues. However, with main intention of sharing my experiences in filling and filing the audit reports and not with the intention of solving individual problems, I propose to discuss mainly on the following lines:

A. Challenges in filling the form 10B and 10BB

B. Challenges in filing the forms 10B/10BB c. Other miscellaneous challenges.

REGISTRATION OF TRUST IN 12AA UNDER FOLLOWING FORM

TRUST REGISTRATION	FORM To BE APPLIED	CERTIFICATE ISSUED IN
New Trust Registration	10A	10AC
Old Existing Trust - Re Registration	10A	10AC
Permanent Registration	10AB	10AC
80G EXEMPTION - OLD RENEWAL	10A	10AC
80G EXEMPTION - NEW TRUSE	10A	10AC

APPLICATION OF FUNDS

FORM NO	APPLICABILITY
FORM NO.9A	ACCUMULATION OF FUND FOR 1 YEAR
FORM NO.10	ACCUMULATION OF FUND FOR 5 YEARS
FORM NO.10B	AUDIT REPORT FOR GROSS RECEIPTS MORE THAN 5 CRORES AND FOREIGN CONTRIBUTION RECEIVED
FORM NO.10BB	AUDIT REPORT FOR GROSS RECEIPT LESS THAN Rs.5 crores more than Taxable Limit
FORM NO.10BD	For Donation Received
Form no.,10BE	Certificate to be issued to Donars

Flow chat for 10B Applicability



CHALLENGES IN FILLING THE FORM 10B AND 10BB

- It is very important that the New audit forms need to be filled up carefully with professional support and supervision.
- While filling up the audit forms the following updated records and documents are kept ready for ensuring the correctness of data filled up in all the forms without any variations.
- Form No.26AS and AIS and TIS
- Form NO.10BD filed for donation received filed on or before 30.6.2023 r.w.s271K of the IT Act,1961
- Form No.10BE certificate to be issued on or before 30.06.2023 . r.w.s234G of the IT Act,1961.
- Form No.9A accumulation of income u/s.11(1) for one year
- Form No.10 accumulation of income u/s.11(1) for Five years.
- ITR 7 with financials
- Previous year Audit report and ITR 7
- With this necessary abundant precaution we shall discuss some of the issues covered under 49 clauses in 10B and 32 clauses in 10BB

Comparison between new & old clauses

FORM	NEW	OLD	ISSUES
Form 10B	49 Clauses	8 clauses	<ol style="list-style-type: none"> 1. Gross receipts more than 5 Crores and or gross receipts include contribution under FCRA. 2. New form is very detailed wherein each point filled in ITR 7 is being certified. It may be observed that the Chartered Accountant is virtually certifying the correctness of all the figures filled in the ITR-7. Assertion of true and correct view along with true and fair view were inserted in the main audit report. 3. The Old 10B Form has only 8 clauses as compared to 49 clauses in the new form. In the old form true and fair view was being certified.
Form 10BB	32 Clauses	19 clauses	<ol style="list-style-type: none"> 1. Gross receipts less than 5 crores more than taxable limit Rs.2,50,000/- 2. Form 10BB was previously applicable only for trusts /institutions registered u/s 10(23C) . The new form has 32 clauses vis -a- vis 19 clauses in the old form.

Clause 1 to 10	Dealing with Basic Details , Legal Details , Registration details and the Management Information
Clause 11 & 12	Details of the Objects and dates of modification if any
Clause 13	Regarding commencement of activities
Clause 14	Regarding books of accounts to be maintained by the trust specified under Rule 17AA. This has been introduced in line with reporting requirement in Form 3 CD and u/s 44AA of IT Act,1961.
Clause 15 to 18	<p>The auditor has to certify whether proviso 2(15) of the Act is applicable.</p> <p>The proviso to Section 2(15) provides that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use.</p> <p>Whether the trust has any receipts in the nature of business and separate books of accounts are being maintained for it.</p>
Clause 19	Reporting on income of the trust for which TDS has been deducted. Reconciliation of income with 26AS, AIS and TIS.
Clause 20 to 27	Deals with respect to Voluntary contributions including Foreign contributions as per FCRA
Clause 28 to 30	Income to be applied by the trust other than voluntary contributions and income applied outside India and the income to be applied inside India
Clause 31	Deals with application of income It has 21 sub clauses. Also Disallowance of application Bifurcation of application as to Revenue or Capital. Disallowance of income u/s 40A(3).
Clause 32	Taxable income
Clause 33	Income taxable under section 115BBI
Clause 34	Anonymous donation which is chargeable to tax @ 30 % under section 115BBC
Clause 35	Other Income
Clause 36	Details of capital asset transferred under sub-section (1A) of section 1
Clause 37	Application of income out of different sources. The purpose here seems to establish when there is an amount spent over and above the collections of the year, the source for the amount spent whether out of Corpus, Borrowed Funds or Earlier years accumulation.
Clause 38	Details of application resulting in payment or credit in excess of Rs. 50 lakh during previous year to a single person out of 37. Details of Pan and Amount paid.
Clause 39	<p>Whether provisions of twenty second proviso to clause (23C) of section 10 or sub-section (10) of section 13 are applicable?</p> <p>Total Income and Total Expenditure. Whether any expenditure to be disallowed</p>
Clause 40	Expenditure incurred for religious purpose and % thereof
Clause 41 and 42	Definition of specified persons and payments made to them. This information to be obtained from the management and scope limitation to be given in absence of information,
Clause 43 and 44	Specified Violations Whether the trust has satisfied the compliance under all other Acts. There is no excess claim over and above the application of income. Eg Depreciation cannot be claimed when the application towards capital asset has been claimed.
Clause 45	In view of provisions of nineteenth proviso to clause (23C) of section 10 or sub-section (7) of section 11, please specify whether the trust or institution has claimed deduction under section 10 [other than clause (1), clause (23C) and clause (46) thereof] during the previous year and the amount of such claim?

Clause 46	Whether the trust has received loans in excess of limits under 269SS
Clause 47	Whether the trust has received amounts in excess of limits under 269ST
Clause 48	Whether the trust has repaid loans/ amounts in excess of limits under 269T
Clause 49	<p>Whether the auditee is required to deduct or collect tax as per the provisions of Chapter XVII-B or Chapter XVII-BB? If not the disallowance be made .</p> <p>Charitable Trust may be registered under 12A and 80G of the I T Act but unless specifically exempted for TDS, yearly based on application made, TDS provisions applicable to the trust even trust income is exempted. TDS provisions applicable to the trust when it makes payment to others. This rule has been in existence since 2015 but specifically in the audit report now.</p>

Clause wise Analysis of Form 10B..

- Clause 43 to Clause 49 –The disallowances made for a business entity / transactions have now permitted to the trust .
- The government seemingly want to enforce guidelines for expenses and collections on par with business expenditures. Disallowance under 40 A (3) and 40 a (i) (a) seem to be step in that direction. On the receipts side, cash donations for Rs.2000 and less are only allowable.
- The introduction of Form 10BD to enforce the details of donations and curb anonymous donations is to enforce accountability for the collections of the trust and to match the deductions claimed by the tax payers
- Beware of Penal section 271K for Non compliance.
- Beware of Form 10BE and Penal levy of section 234G for Non-Compliance.

Clauses in Form 10B and not in 10BB

Clause 15	Advancement of General Public Utility
Clause 16	Aggregate annual receipts from such activities in respect of project/ institution
Clause 17	Business undertaking
Clause 18	Business incidental to objects
Clause 19	TDS on receipts
Clause 36	Capital Asset
Clause 40	Expenditure for religious purposes
Clause 43	Specified violations

Clauses in Form 10B and not in 10BB

- Form 10BB is not as expansive as form 10B
- The audit report places an onerous responsibility on the auditor as the breakup of income and expenses in ITR Form 7 is correlated with the information declared in the Form 10B. Due diligence and care has to be taken infilling the form and the tax audit report.

Comparative analysis of Audit report : Form 3CD , Form 10B and Form 10BB

	Form 3CD	Form 10B	Form 10BB
Total No of clauses	44 Clauses	49 Clauses	32 Clauses
General Clauses	1-10	1-13	1-10
Books of account to be maintained	Clause 11 Prescribed books of account u/s 44AA	Clause 14 Prescribed books of accounts to be maintained by the trust specified under Rule 17AA	Clause 11 Prescribed books of account as specified under Rule 17AA
Capital Assets Transfer	Clause 17 Details of capital asset such as any land or building or both is transferred during the previous year for a consideration less than value adopted or assessed or assessable by any authority of a State Government referred to in section 43CA or 50C.	Clause 36 Details of capital asset transferred under sub-section (1A) of section 11	NIL

	Form 3CD	Form 10B	Form 10BB
Disallowance/deemed income under section 40A(3):	Clause 21 (d) Disallowance/deemed income under section 40A(3):	Clause 31 (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	Clause 23 (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
Amounts inadmissible under section 40(a):	Clause 21 (b) (A) and Clause 21 (b) (B) Details of payment on which tax is not deducted at source	Clause 31 (ix) Amount disallowable under thirteenth proviso to clause (23C) of section 10 or Explanation 3 to subsection (1) of section 11 read with sub-clause (ia) of clause (a) of section 40	Clause 23 (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

	Form 3CD	Form 10B	Form 10BB
Disallowance u/s 43B	<p>Clause 26 In respect of any sum referred to in clauses (a),(b), (c), (d), (e), [(f) or (g)] of section 43B, the liability for which:—</p> <p>was incurred in the previous year and was (a) paid on or before the due date for furnishing the return of income of the previous year under section 139(1);</p> <p>The payment is allowable if the outstanding dues are remitted before the filing of return of income and return is filed within the due date</p>	<p>Clause 31 (iii) Amount which was not actually paid during the previous year [if included in (i)(c)] Only actually paid expenses to be allowed.</p> <p>The time limit allowed for payments under Section 43B to be paid on or before date of filing is not allowed.</p> <p>In such case application u/s 9A is advisable to avoid disallowance</p>	<p>Clause 23(xvii) Amount deemed to have been applied during the previous year under clause (2) of Explanation 1 to sub-section (1) of section 11</p>

	Form 3CD	Form 10B	Form 10BB
Applicability of TDS deduction provisions	<p>Clause 34.(a) Whether the assessee is required to deduct or collect tax as per the provisions of Chapter XVII-B or Chapter XVII-BB, please furnish ?</p>	<p>Clause 49 Whether the auditee is required to deduct or collect tax as per the provisions of Chapter XVII-B or Chapter XVII-BB (If yes, fill Schedule TDS/TCS/ Interest on TDS/TCS as applicable)</p>	<p>Clause 32 Whether the auditee is required to deduct or collect tax as per the provisions of Chapter XVII-B or Chapter XVII-BB (If yes, fill Schedule TDS/TCS/ Interest on TDS/TCS as applicable)</p>
Particulars of any payments made to persons specified under section 40A(2)(b)	<p>Clause 23. Particulars of any payments made to persons specified under section 40A(2)(b).</p>	<p>Clause 41 & 42 Details of specified person** as referred to in sub-section (3) of section 13 Payments made to specified person</p>	<p>Clause 28 & 29 Details of specified person** as referred to in sub-section (3) of section 13 Payments made to specified person</p>

	Form 3CD	Form 10B	Form 10BB
Applicability of Section 269SS, 269ST, 269 T in case of Loans and advances	<p>Clause 31 Acceptance of loan or deposit or any specified sum, exceeding the limit specified in section 269SS during the previous year. Acceptance of sums in excess of limit in section 269ST Repayment of loans in excess of limit in section 269T</p>	<p>Clause 46 ,47,48 Acceptance of loan or deposit or any specified sum, exceeding the limit specified in section 269SS during the previous year. Acceptance of sums in excess of limit in section 269ST Repayment of loans in excess of limit in section 269T</p>	NIL

	Form 3CD	Form 10B	Form 10BB
Specified Violations	<p>Clause 21.(a). Please furnish the details of amounts debited to the profit and loss account, Being in the nature of capital, personal, advertisement expenditure etc</p> <p>Expenditure by way of penalty or fine for violation of any law for the time being in force</p> <p>Expenditure by way of any other penalty or fine not covered above</p> <p>Expenditure incurred for any purpose which is an offence or which is prohibited by law</p>	<p>Clause 43 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</p> <p>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 noncompliance has occurred, has either not been disputed or has attained finality</p>	<p>Clause 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</p> <p>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 noncompliance has occurred, has either not been disputed or has attained finality</p>

	Form 3CD	Form 10B	Form 10BB
Expenditure incurred in excess of 1 crore / 50 L	<p>Clause 30 B Whether the assessee has incurred expenditure during the previous year by way of interest or of similar nature exceeding one crore rupees as referred to in sub-section (1) of section 94B ?</p>	<p>Clause 38 Details of application resulting in payment or credit in excess of Rs. 50 lakh during previous year to a single person out of 37. Details of Pan and Amount paid.</p>	NIL

PARTICULARS	I TR- 7	FORM NO.10B
Schedule I	Details of Accumulation u/s 11(2)	Clause 31(xx) – Schedule AC
Schedule IA	Details of Accumulation taxed u/s 11(3)	Clause - Schedule ACA
Schedule D	Details of deemed application u/s 11(1)	Clause 31(xix) - Schedule-DI
Schedule DA	Details of accumulation taxed in earlier year u/s 11(1B)	Clause – Schedule ACA
Schedule J	Investment of Funds - Corpus	Clause 31(vii)-Schedule Corpus
Schedule VC	Voluntary Contribution	Clause 26-A- for 10(23C) and 80G sub-section(2)(b) Repair and Renovation – Schedule Corpus Clause 26B for 11(1) – Schedule Fill Corpus.
Schedule AI	Aggregate Income	Clause 21 (i) to 27
Schedule A	Amount applied	Clause 28 to 31(viii) Clause 37A to 37F

Challenges in Filing of Form 10B/10BB

- Care has to be taken in data entry in ITR-7 while filing Schedule-A (Application towards the expenditure of the trust/ institution) and Schedule-C (sources of Fund to meet revenue and capital application in Row-A). extra care has to be taken in putting corresponding data entry in Form No.10B/10BB without any variation.
- Firm Registration number of the Auditor is mandatory in filing Form 10B/10BB.
- Filing of Form 10BB was enabled only during 2nd week of October and till now (17.10.2023) there are some technical errors occur in uploading the forms.
- Errors in uploading offline utility of Form 10BB could not be ascertained. Error message stating “submission failed. Invalid input” is displayed without mentioning the error specifically.
- ITR is filed offline JSON-Errors do occur and it takes lot of time in eliminating the error one by one.
- Filing of ITR form-07 and Audit report-Form 10B/10BB through E-portal through, Compu tax software is found to be more comfortable than other software Winman, etc.
- All the systems used be updated to the latest version of Java and OS(Windows 11) so as updated DS can be used without any error.
- Trustees Pan or Aadaris mandatory. Any variation may result in error.
- Form No.10BB online mode is not yet enabled. Though offline mode is enabled but Form No.10BB could not be uploaded due to error in putting details of Auditors data.

Other Miscellaneous Challenges:

- Training in Technology for data entry and handling Income-tax e-portal with reference to software used be given to the staff.
- The Knowledge should be shared by all the members in data entry division (Article Clerks) and the responsibility should be alternatively fixed as and when necessity arises due to absence of staff(leave, absence etc.), exam leave like that.
- To avoid last minute chaos and confusion the whole process to be completed well in advance and one work at one sitting.
- Validity of DSC -Auditor & auditee should be verified well in advance to avoid last min filing problems.
- The filling and filing of Form No.10B/10BB be carried out under the supervision of Auditor signing the report

Conclusion

- Intention of the statute with reference to NGO and Non-profit organizations is to treat all trust with respect and benevolence. The above intention is extended through mandatory provisions of CSR. Further Government has kept immense faith and trust on NGOs not to profit organizations including charitable and educational trusts. Due to breach of trust on the part of the “Trusts” , Provisions of Benevolence are being scrutinized at par with business entities. Close Monitoring and compulsory scrutiny of large sums of fund received and applied for the objects is followed for each and every financial year creating lots of hardships and inconvenience to genuine trusts. Mutual trust and confidence can be achieved between the Trust and Government only by way of strictly adhering to the provisions of Section 10(23C) ,11,12 and 13 of the Income-tax Act

Company Law Article w.r.t amendments from July to Nov 2023



CA. Priya A

***Merger of multiple User IDs in V-2 Portal with new user ID in V-3 and deactivation of old User ID in V-2 Portal**

MCA vide its General Circular No.07/2023 dated, 13th July 2023, issued the merger of multiple User IDs in V-2 Portal with new user ID in V-3 and deactivation of old User ID in V-2 Portal.

Ministry had observed that many members of the three institutes viz. Institute of Chartered Accountants of India, Institute of Cost Accountants of India and Institute of Company Secretaries of India had created multiple user IDs while transacting on existing MCA21 V2 portal. Further many members were unable to create user ID in the new MCA21 V3 portal due to an existing ID about which either they did not have any knowledge, or they did not remember that such an ID had been or was created in existing V2 portal.

It was decided that all such members may approach the respective institutes with their credentials and the institute shall make recommendations for merging multiple existing user IDs with the ID created in V3 portal or for deactivation of the old user IDs in V2, to enable desirous members to create a new ID in V3 portal. The necessary changes in the user ID in V3 portal in such cases shall be done based on recommendations forwarded by the President or Vice-president of the institute to ddegov@mca.gov.in.

***Introduction of Companies (Incorporation) Second Amendment Rules, 2023 and amendment to Form RD-1**

MCA vide its Notification dated 02nd August 2023, had amended Companies (Incorporation) Rules, 2014 by introducing the Companies (Incorporation) Second Amendment Rules, 2023.

The Rules had revised Form No.RD-1, used for filing application to Regional Director, pursuant to the Companies Act, 2013 and Rule 40 and 47 of the Companies (Incorporation) Rules, 2014, earlier, for approval of Compromises, Arrangements, Amalgamations and conversions.
à Condonation of delay in filing of Form 3, Form 4, and Form 11 under Section 67 of the Limited Liability Partnership (LLP) Act, 2008, read with section 460 of the Companies Act, 2013.

MCA vide its General Circular No.08/2023 dated, 23rd August 2023, gave a one-time relaxation in the additional fees to those LLPs who could not file Form 3 (LLP Agreement and changes therein), Form 4 (Notice of appointment, cessation, change in name/address/designation of a designated partner or partner and consent to become a partner/designated partner) and Form 11 (Annual Return of LLP) within their due dates, due to MCA Version-3 (V-3) server issues.

The salient features of the scheme are as follows:

- The Form-3 and Form-4 would be processed under Straight Through Process (STP) mode for all purposes except for change in business activities.

The stakeholders were advised to file these forms in sequential manner i.e., the filing for old events date may be filed first and so on so as to update the master data in proper manner.

- At the time of filing these forms, the pre-filled data as per existing master data of the LLP shall be provided in each of above mentioned forms but the same shall have the facility to edit. The onus of filing correct data would be on the stakeholders. In case of misrepresentation, the Designated Partner and the professional certifying the form may be liable for adverse action as per provisions of the law.
- The filing of Form-3 and Form-4 without additional fee shall be applicable for the event dates 01st January 2021 and onwards. For events dated prior to 01st January 2021, these forms could be filed with 02 times and 04 times of normal filing fees as additional fee for small LLPS and Other than small LLPs respectively.

- The filing of Form-11 without additional fee shall be applicable for the financial year 2021-22 onwards. Form-11 for previous years (prior to financial year 2021-22) could be filed with 02 times and 04 times of normal filing fee as additional fee for small LLPs and Other than small LLP's respectively.
- These forms were made available for filing from 01st September 2023 onwards till 30th November 2023 (both dates inclusive).
- The LLPS availing the scheme shall not be liable for any action for delayed filing of the Form-3, Form-4 and Form-11.

***Introduction of the Limited Liability Partnership (Second Amendment) Rules, 2023.**

The MCA vide its Notification No. G.S.R. 644(E) issued on 1st September 202, amended the Limited Liability Partnership Rules, 2009, and introduced the Limited Liability Partnership (Second Amendment) Rules, 2023.11.3

As per the said amendments the the old Form 3 relating to Information with regard to Limited Liability Partnership Agreement and changes, if any and Form 4 relating to Notice of appointment, cessation, change in name/address/designation of a designated partner or partner and consent to become a partner/designated partner have been substituted with new forms.

***Clarification on holding of Annual General Meeting (AGM) and EGM through Video Conference (VC) or Other Audio Visual Means (OVAM) and passing of Ordinary and Special resolutions by the companies under the Companies Act, 2013 read with Rules made thereunder - Extension of time up to 30th September, 2024 - dated.29th September 2023.**

In continuation to the Ministry's General Circular No.20/2020 dated 05.05.2020, General Circular No.02/2022 clatcd 05.05.2022 and General Circular No.10/2022 dated 28.12.2022 and after due examination, it was decided to allow companies whose AGMs were due in the year 2023 or 2024, to conduct their AGMs through VC or OAVM on or before 30th September, 2024 in accordance with the requirements laid down in Para 3 and Para 4 of the General Circular No. 20/2020 dated 05.05.2020.

It was also clarified that General Circular shall not be construed as conferring any extension of statutory time for holding of AGMs by the companies under the Companies Act, 2013 (the Act) and the companies which had not adhered to the relevant statutory timelines shall be liable to legal action under the appropriate provisions of the Act.

Further, in continuation to this Ministry's General Circular No.14/2020 dated 08.04.2020, General Circular No.03/2022, dated 05.05.2022 and General Circular No.11/2022 dated 28.12.2022 and after due examination, it was also decided to allow companies to conduct their EGMs through Video Conference (VC) or Other Audio Visual Means (OAVM) or transact items through postal ballot in accordance with framework provided in the aforesaid Circulars up to 30th September, 2024. All other requirements provided in the said Circulars to remain unchanged.

***Introduction of the Companies (Incorporation) Third Amendment Rules, 2023.**

The MCA vide its Notification No.G.S.R.790 (E) dated 20th October, 2023, amended the Companies (Incorporation) Rules, 2014, and introduced the Companies (Incorporation) Third Amendment Rules, 2023, effective from 21st October, 2023.

The discretionary power of the Regional Director (RD) to impose any cost upon shifting of the registered office of a company from one state or union territory to another has been revoked.

The shifting of the registered office may be allowed, where the management of the company has been taken over by new management under a resolution plan approved under section 31 of the Insolvency Bankruptcy Code, 2016 and no appeal against the resolution plan is pending in any Court or Tribunal and no inquiry, inspection, investigation is pending or initiated after the approval of the said resolution plan.

The MCA informed the stakeholders that the processing of application forms for the purpose of name reservation and incorporation at the Central Reservation Centre (CRC) is faceless and randomised. The applications if sent for resubmissions are normally not processed by the same official who has processed the application at the first instance.

Stakeholders were asked to inform the Ministry in case of any malpractice or irregularity on the part of any official/officer at CRC or any professional with supporting evidences at CVO-MCA@GOV.IN for taking action in accordance with the extent CVC guidelines. The MCA informed

The stakeholders that the View Public Documents (VPD) V3 Beta version was made available under Document Services from 7:00pm to 10:00pm for testing purposes only and forms prior to May 2023 were available for download.

***Introduction of Companies (Management and Administration) Second Amendment Rules, 2023.**

MCA vide its Notification G.S.R.801(E) dated 27th October 2023, had amended Companies (Management and Administration) Rules, 2014 by introducing the Companies (Management and Administration) Second Amendment Rules, 2023.

Every company is required to designate a person responsible for furnishing, and extending co-operation for providing, information to the Registrar or any other authorised officer with respect to Beneficial Interest in Shares of the company.

The designated person shall be the Company Secretary appointed by the company, a Key Managerial Personnel other than the Company Secretary, or every Director, if there is no Company Secretary or Key Managerial Personnel.

Until a person is designated as mentioned above, the Company Secretary appointed by the company or the Managing Director, or Manager or every Director will be deemed to be the Designated Person, in the absence of the Company Secretary in the company.

The details of the Designated Person shall be informed in the Annual Return.

In case of any change in the Designated Person, the same shall be intimated to the Registrar in e-form GNL-2 specified under the Companies (Registration Offices and Fees) Rules, 2014.

***Introduction of the Companies (Prospectus and Allotment of Securities) Second Amendment Rules, 2023**

The MCA vide its Notification vide G.S.R. 802(E) dated 27th October, 2023, amended the Companies (Prospectus and Allotment of Securities) Rules, 2014, and introduced the Companies (Prospectus and Allotment of Securities) Second Amendment Rules, 2023

Rule 9 deals with amendment for Public Companies, every public company which issued share warrants prior to commencement of the Companies Act, 2013 and had not converted into shares shall:

- Within three months of the commencement of this amendment, inform the Registrar about the details of such share warrants in Form PAS-7.
- Within six months of the commencement of this amendment, require the bearers of the share warrants to surrender such warrants to the company and get the shares dematerialised in their account and for this purpose the company shall place a notice for the bearers of share warrants in Form PAS-8 on the website of the company, if any and shall also publish the same in a newspaper in the vernacular language which is in circulation in the district and in English language in an English newspaper, widely circulated in the State in which the registered office of the company is situated.
- In case any bearer of share warrant does not surrender the share warrants within the period referred above, the company shall convert the such share warrants into dematerialised form and transfer the same to the Investor Education and Protection Fund established under section 125 of the Act.

***Rule 9B deals with issue of securities in dematerialised form by Private Companies other than a small company shall:**

- Issue the securities only in dematerialised form; and
- Facilitate dematerialisation of all its securities, in accordance with provisions of the Depositories Act, 1996 (22 of 1996) and regulations made thereunder.

A private company, which as on last day of a financial year, ending on or after 31st March, 2023, is not a small company as per audited financial statements for such financial year, shall, within eighteen months of closure of such financial year (i.e. 30th September, 2024), comply with the provisions of this rule.

Every such private company making any offer for issue of any securities or buyback of securities or issue of bonus shares or rights offer, after the date when it is required to comply with this rule, shall ensure that before making such offer, entire holding of securities of its promoters, directors, key managerial personnel has been dematerialised in accordance with the provisions of the Depositories Act, 1996 and regulations made thereunder.

Every holder of securities of such private company:

- who intends to transfer such securities on or after the date when the company is required to comply with this rule, shall get such securities dematerialised before the transfer; or
- who subscribes to any securities of the concerned private company whether by way of private placement or bonus shares or rights offer on or after the date when the company is required to comply with this rule shall ensure that all his securities are held in dematerialised form before such subscription.
- The provisions of this rule shall not apply in case of a Government company.
- After the Form PAS-6, Form PAS-7 w.r.t Details of pending share warrants under Rule 9(2)(a) and Form PAS-8 w.r.t Notice for bearers of pending share warrants under Rule 9(2)(b) has been inserted

***Introduction of Limited Liability Partnership (Third Amendment) Rules, 2023**

MCA vide its Notification No.G.S.R. 803(E), dated 27th October, 2023, dated 02nd August 2023, had amended Limited Liability Partnership (LLP) Rules, 2009 and introduced Limited Liability Partnership (Third Amendment) Rules, 2023.

- The new Rule 22A, dealing with Register of Partners has been inserted, wherein, every LLP, from the date of its incorporation, is required to maintain a register of its partners in Form 4A. Existing LLPs are required to comply within thirty days from the commencement of the Amendment Rules. The register should contain various particulars, including details of partners, details of contribution. Entries must be updated within seven days of changes. Rectifications made pursuant to orders by competent authorities must be recorded.
- Under new Rule 22B, dealing with declaration of Beneficial Interest, registered partners without beneficial interest in contribution, must file a declaration in Form 4B within 30 days of registration. Changes in beneficial interest should also be reported within 30 days. Beneficial partners who have an interest in contributions, not registered in their name must file a declaration in Form 4C within 30 days. Changes in beneficial interest should also be reported within 30 days.
- Each LLP should specify a Designated Partner responsible for furnishing and cooperating in providing information about beneficial interest through Form 4.
- Until a designated partner is specified, every designated partner is responsible for providing information.

***MCA notified Section 5 of the Companies (Amendment) Act, 2020 effective from October 30, 2023**

The MCA vide Notification No.4744(E) dated 30th October, 2023, appointed this date as the effective date for the provisions of section 5 of the Companies (Amendment) Act, 2020.

Section 5 of Companies (Amendment) Act, 2020 deals with section 23 of the Companies Act, 2013

This amendment is aimed at providing public companies with the flexibility to list their securities on foreign stock exchanges.

Certain class of public companies are now allowed to issue specific classes of securities for the purpose of listing on permitted stock exchanges in permissible foreign jurisdictions or other jurisdictions, as may be prescribed.

The Central Government may, by notification, exempt any class of public companies referred to in sub-section (3) from any of the provisions of this Chapter, Chapter IV, section 89, section 90 or section 127, as the case may be.

- MCA informed the stakeholders that it has integrated with National Single Window System (NSWS) for the Incorporation of Companies and LLPs. Incorporation services could also be availed through NSWS portal.
- MCA informed the stakeholders that the processing of application forms for the purpose of name reservation and incorporation at the Central Reservation Centre (CRC) was faceless and randomised. The applications if sent for resubmissions were normally not processed by the same official who had processed the application at the first instance. Stakeholders were asked to inform the Ministry in case of any malpractice or irregularity on the part of any official/officer at CRC or any professional with supporting evidences at CVO-MCA@GOV.IN for taking action in accordance with the extent CVC guidelines.

***MCA notified Limited Liability Partnership (Significant Beneficial Owners) Rules, 2023**

The MCA vide its Notification dated 09th November, 2023, introduced Limited Liability Partnership (Significant Beneficial Owners) Rules, 2023.

The provisions of these rules shall apply to all the LLPs. Every reporting LLP shall identify if there is any individual who is a Significant Beneficial Owner (SBO), in relation to that LLP and give a notice to SBO in Form No. LLP BEN-4, seeking information, who would make a declaration in Form No. LLP BEN-I. Within 30 days of receipt of the declaration from SBO, a Return in Form No. LLP BEN-2 will be filed with RoC.

Existing SBOs shall file declaration in Form No. LLP BEN-1 within 90 days the commencement of these rules. New SBOs must file within 30 days.

A Register must be maintained with respect to Significant Beneficial Owners in Form No. LLP BEN-3.

Gallery for the Month of *November 2023*

Topic : “Practical approach to handle Faceless Assessment and Faceless Appeals”

Speaker : CA. Muthu Abirami T V

Date : 16th November 2023, Thursday.



Topic : "Evolving landscape of indirect taxes in Tamil Nadu: Updates on vat and GST"

Date : 23rd November 2023, Thursday



ICAI MSME Sahyog and ICAI Startup Samvad @ Dr.Abdul Kalam Conference Hall, MEPZ, Tambaram



Upcoming Programs



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

CHENGALPATTU DISTRICT BRANCH (SIRC)



Cordially invites you to

Physical CPE Meetings to be held in December 2023 @ Branch Premises

Topics : Code of Ethics - Practical issues before the Disciplinary Committee and NFRA

Speaker : Adv CA. Ramana Kumar B

Date : 09nd December 2023, Saturday

Time : 04:00 PM to 06:00 PM

CPE : 2Hrs

Topics : Unlocking New Age Opportunities for young members

Speaker : CA. John Moris A

Date : 09nd December 2023, Saturday

Time : 06:00 PM to 08:00 PM

CPE : 2Hrs

Topics : Workshop on Accounting Standards

Date : 12th Dec to 15th December 2023, Tuesday to Friday

Time : 05:00 PM to 08:00 PM

CPE : 12Hrs

Topics : One Day Training Program on ZOHO Books

Date : 16th December 2023, Saturday

Time : 10:00 AM to 05:00 PM

CPE : 6Hrs

Topics : Workshop on Auditing Standards

Date : 19th & 20th December 2023, Tuesday to Wednesday

Time : 04:00 PM to 08:00 PM

CPE : 8Hrs



Topics : One Day Training Program on Tally

Date : 23th December 2023, Saturday

Time : 10:00 AM to 05:00 PM

CPE : 6Hrs

Topics : Net Working Guidelines & MDP

Date : 21st December 2023, Thursday

Time : 05:00 PM to 08:00 PM

CPE : 3Hrs

December Month
CPE Total
Credit Hrs 39



Registration Link: <https://events.cglportal-icai.org/member>

CA. Sivagurunathan T
Chairman

CA. Shivachandra Reddy K
Secretary

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