

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

Under the provisions of Section 11 of the Income-tax Act, 1961 (hereafter 'Act') the primary condition for grant of exemption to trust or institution in respect of income derived from property held under such trust or institution is that the income derived from property held under trust or institution should be applied during the previous year, and it has to be accumulated and applied for such purposes in accordance with various conditions provided in the section.

2. The Finance Act, 2015 amended section 11 and section 13 of the Act with effect from 1-4-2016 (Assessment Year 2016-17). Consequently, Income-tax Rules, 1962 (hereafter 'Rules') were also amended vide the Income-tax (1st Amendment) Rules, 2016. As per the amended provisions of the Act read with rule 17 of the Rules, while 15% of the income can be accumulated indefinitely by the trust or institution, 85% of income can only be accumulated for a period not exceeding 5 years subject to the conditions, *inter alia*, that such person submits the prescribed Form No. 10 electronically to the Assessment Officer within the due-date specified under section 139(1) of the Act.

3. Further, where the income from property held under trust or institution applied to charitable or religious purposes falls short of 85% of the income derived during the previous year for the reason that the income has not been received during that year or any other reason, then on the exercise of the option by submitting in Form. No. 9A electronically by the trust or institution on or before the due-date of furnishing the return of income, such income shall be deemed to have been applied for charitable or religious purpose.

4. Representations have been received by the Board/field authorities stating that Form No. 9A and Form No. 10 could not be filed along with the return of income starting from AY. 2016-17, which was the first year of e-filing of these forms, and for subsequent assessment years also. It has been requested that the delay in filing of Form No. 9A and Form No. 10 may be condoned under section 119(2)(b) of the Act.

5. Accordingly, in suppression of earlier Circulars/Instructions issued in this regard, with a view to expedite the disposal of application filed by the trust or institution for condoning the delay and in exercise of the powers conferred under section 119(2)(b) of the Act, the Central Board of Direct Taxes has already authorized the Commissioners of Income-tax to admit belated applications in Form No. 9A and Form No. 10 in respect of Assessment Year 2016-17 and Assessment Year 2017-18 where such Form No. 9A and Form No. 10 are filed after the expiry of the time allowed under the relevant provisions of the Act *vide* Circular No. 7/2018 dated 20-12-2018 and Circular No. 30/2019 dated 17-12-2019 both issued *vide* F.No. 197/55/2018-ITA-I.

6. In addition to the above, it has also been decided by the CBDT that where there is delay of up to 365 days in filing Form No. 9A and Form No. 10 for Assessment Year 2018-19 or for any subsequent Assessment Years, the Commissioners of Income-tax are hereby authorized to admit such belated applications of condonation of delay under section 139(2) of the IT Act and decide on merits.

7. The Commissioners of Income-tax shall, while entertaining such belated applications in Form No. 9A and Form No. 10, satisfy themselves that the assessee was prevented by reasonable cause from filing of applications in Form No.9A and Form No. 10 within the stipulated time. Further, in respect of Form No. 10, the Commissioners shall also satisfy themselves that the amount accumulated or set apart has been invested or deposited in any one or more of the forms or modes specified in sub-section (5) of Section 11 of the Act.