



Vidarbha Tax Practitioners' Association

Room No. 8 & 9, New Vikrikar Bhawan, Civil Lines, Nagpur-440 001.

Ph. : 0712 - 2558157



To
The Chairman
Central Board of Direct Taxes
North Block, New Delhi

Subject: Representation regarding non-availability of mechanism for filing application for registration of trusts for earlier years (prior to 01.04.2026) – urgent need for enabling Form 10AB / suitable modification in Form 105

Respected Sir,

The Vidarbha Tax Practitioners Association (VTPA) respectfully wishes to draw your kind attention to a serious and widespread difficulty being faced by charitable trusts and institutions across the country in the matter of obtaining registration under section 12AB for earlier financial years.

1. **Background of the Issue:**

With the introduction of the Income-tax Act, 2025, the existing Income-tax Act, 1961 stands repealed w.e.f. 01.04.2026, subject to transitional provisions contained in section 536 of the new Act.

At present, the e-filing portal has discontinued the availability of Form No. 10AB under the Income-tax Act, 1961. Instead, a new Form No. 105 has been introduced under the Income-tax Act, 2025.

However, this transition has resulted in a complete procedural vacuum for a specific and significant category of taxpayers.

2. **Nature of the Difficulty:**

Numerous trusts and institutions have commenced their charitable activities in financial years prior to 01.04.2026 (such as FY 2022-23, FY 2023-24, FY 2024-25, etc.) but could not apply for registration within the prescribed time.

Under the earlier regime, such entities were eligible to apply for registration in Form No. 10AB along with condonation of delay, thereby enabling them to claim exemption under sections 11 and 12 from the year of commencement of activities. However, the present position is as under:

- A) Form No. 10AB is no longer available on the portal.
- B) Form No. 105 (under the new Act) does not presently provide for condonation of delay .
- C) Form No. 105 is aligned with the new regime and does not adequately address retrospective registration for earlier years.

As a result, taxpayers are left with no effective mechanism to seek registration for earlier years.

3. **Legal Position**

Section 536 of the Income-tax Act, 2025, read with section 6 of the General Clauses Act, 1897, preserves rights accrued under the repealed law unless a contrary intention is expressed.

Accordingly:

- a) The right of a trust to seek registration for earlier years under the Income-tax Act, 1961 is a substantive right.
- b) Such right cannot be defeated due to absence of procedural mechanism.
- c) It is a settled principle that procedural law cannot override or extinguish substantive rights.

Further, the present situation results in impossibility of compliance, as the taxpayer is willing to comply but is prevented from doing so due to system limitations.

4. **Practical Consequences:**

Due to the above lacuna:

- a) Genuine charitable trusts are unable to obtain registration from the year of commencement
- b) Exemption under sections 11 and 12 is at risk of being denied for earlier years
- c) There is a likelihood of avoidable litigation across the country
- d) Taxpayers are being penalised for no fault of theirs

5. **Administrative Limitation:**

Even if taxpayers attempt to submit manual applications, the jurisdictional Commissioner (Exemption) is presently unable to process such applications due to absence of system-enabled functionality, resulting in further hardship.

6. **Need for Immediate Intervention:**

The issue is systemic and requires urgent intervention at the policy and technical level to ensure that taxpayer rights are protected and unnecessary disputes are avoided.

7. **Suggestions / Proposed Solutions**

In view of the above, we respectfully submit the following suggestions for your kind consideration:

(A) Re-enablement of Form No. 10AB:

The portal may kindly be enabled to allow filing of Form No. 10AB under the Income-tax Act, 1961 for transitional cases involving earlier years, along with condonation functionality.

OR

(B) Modification of Form No. 105

Form No. 105 / system may be suitably modified to:

- a) Enable condonation of delay.
- b) Allow retrospective registration from earlier financial years (prior to 01.04.2026).
- c) Clearly capture that the application pertains to rights under the Income-tax Act, 1961.

(C) Issuance of Clarificatory Circular

A circular may kindly be issued clarifying that:

- a) Taxpayers shall not be prejudiced due to non-availability of forms on the portal
- b) Delay attributable to system constraints shall be condoned
- c) Applications filed once the functionality is enabled shall be treated as valid for earlier years

(D) Protective Filing Mechanism:

Till the issue is resolved, a facility may be provided for protective filing / intimation, so that the date of application is preserved.

8. **Concluding Submission:**

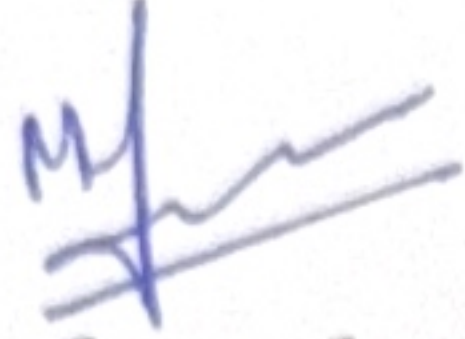
The present issue is not merely procedural but has far-reaching consequences on the taxability of genuine charitable institutions. Unless addressed immediately, it may lead to widespread hardship and avoidable litigation.

We, therefore, humbly request your good office to take urgent corrective action and provide a suitable mechanism so that the substantive rights of taxpayers are duly protected.

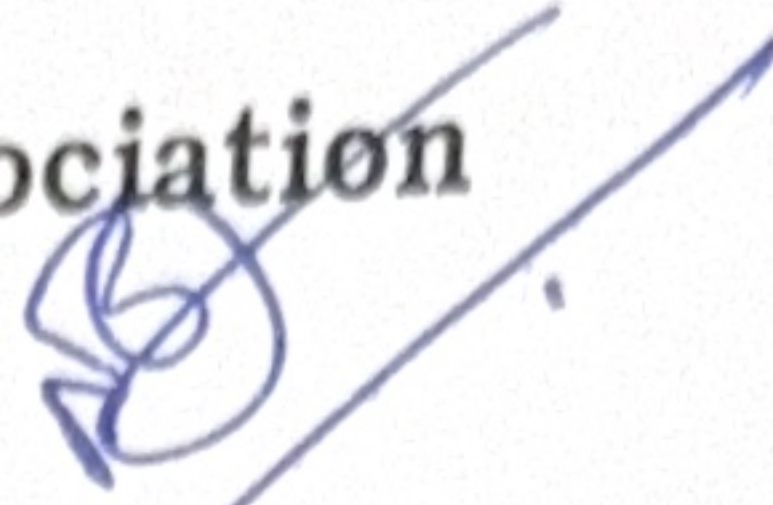
We shall be grateful for an early resolution of this matter.

Thanking you,
Yours faithfully,

For Vidarbha Tax Practitioners Association



CA Mahendra Jain
President



CA Naresh Jakhota
Secretary