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Government of India

Ministry of Finance

Department of Revenue

(Central Board of Direct Taxes)

Dated, the 21st January, 2015

EXPLANATORY NOTES TO THE PROVISIONS OF THE FINANCE(No.2) ACT, 2014

8. Applicability of the registration granted to a trust or institution to earlier years

8.1 The provisions of section 12A of the Income-tax Act, before amendment by the Act, provided that a trust or an institution can claim exemption under sections 11 and 12 only after registration under section 12AA of the said Act has been granted. In case of trusts or institutions which apply for registration after 1st June, 2007, the registration shall be effective only prospectively.

8.2 Non-application of registration for the period prior to the year of registration caused genuine hardship to charitable organisations. Due to absence of registration, tax liability is fastened even though they may otherwise be eligible for exemption and fulfil other substantive conditions. However, the power of condonation of delay in seeking registration was not available.

8.3 In order to provide relief to such trusts and remove hardship in genuine cases, section 12A of the Income-tax Act has been amended to provide that in a case where a trust or institution has been granted registration under section 12AA of the Income-tax Act, the benefit of sections 11 and 12 of the said Act shall be available in respect of any income derived from property held under trust in any assessment proceeding for an earlier assessment year which is pending before the Assessing Officer as on the date of such registration, if the objects and activities of such trust or institution in the relevant earlier assessment year are the same as those on the basis of which such registration has been granted.

8.4 Further, it has been provided that no action for reopening of an assessment under section 147 of the Income-tax Act shall be taken by the Assessing Officer in the case of such trust or institution for any assessment year preceding the first assessment year for which the registration applies, merely for the reason that such trust or institution has not obtained the registration under section 12AA for the said assessment year.

8.5 However, the above benefits would not be available in the case of any trust or institution which at any time had applied for registration and the same was refused under section 12AA of the Income-tax Act or a registration once granted was cancelled.

8.6 *Applicability:* - These amendments take effect from 1st October, 2014.