

F.No. 173/193/2019-ITA-I
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi, 23 April, 2019

To,
The Pr. DGIT(Systems),
New Delhi.

Subject: Clarification with regard to the time allowed for filing of return of income subsequent to the insertion of Clause (ba) in sub-section 1 of section 12A of the income-tax Act, 1961.

Sir,

Undersigned is directed to refer to the representation(s) received on above mentioned subject stating that while processing of ITR-7 for the A.Y. 2018-19, in respect of the belated returns filed u/s 139(4) of the Income Tax Act, 1961 (Act), the following is being communicated u/s 143(1)(a) of the Act:-

"As per section 12A(1)(ba) of the Income-tax Act, 1961 the person in receipt of the income has furnished the return of income for the previous year in accordance with the provisions of sub-section (4A) of section 139, within the time allowed under that section. Otherwise the exemption u/s-11 i.e. sr.no 4(i) and 4 viii in schedule Part BTI is not allowed."

Based on this, exemption u/s 11 of the Act has been denied to otherwise eligible trust, thereby creating huge demand.

2. In the matter, the memorandum explaining the relevant provisions of the Finance Bill, 2017 reads as under:

"as per the existing provisions of said section, the entities registered under section 12AA are required to file return of income under sub-section (4A) of section 139, if the total income without giving effect to the provisions of sections 11 and 12 exceeds the maximum amount which is not chargeable to income-tax. However, there is no clarity as to whether the said return of income is to be filed within time allowed u/s 139 of the Act or otherwise. In order to provide clarity in this regard, it is proposed to further amend section 12A so as to provide for further condition that the person in receipt of the income chargeable to income-tax shall furnish the return of income within the time allowed under section 139 of the Act.

These amendments are clarificatory in nature.

These amendments will take effect from 1st April, 2018 and will, accordingly, apply in relation to assessment year 2018-19 and subsequent years."

3. Additionally, an excerpt of circular 02/2018 dated 15.02.2018 "Explanatory Notes to the Provisions of the Finance Act, 2017" on insertion of clause (ba) in Sub section (1) of section 12A is quoted as under:

"the entities registered under section 12AA are required to file return of income under sub-section (4A) of section 139 of the Income-tax Act, if the total income without giving effect to the provisions of sections 11 and 12 exceeds the maximum amount which is not chargeable to income-tax. Amendment to section 12A of the Income-tax has been made so as to provide for additional condition that the person in receipt of the income chargeable to income-tax shall furnish the return of income within the time allowed under section 139 of the Income-tax Act."

3. Thus, for a trust registered u/s 12AA of the Act to avail the benefit of exemption u/s 11 shall inter-alia file its return of income within the time allowed u/s 139 of the Act. Accordingly, orders u/s 143(1)(a) in those cases in which demand has been raised on this issue may please be rectified.

This issues with the approval of Chairman(CBDT).

52

(Vinay Sheel Gautam)

JCIT(OSD)(ITA-I)

Telefax: 011-23093070

E-mail: vinaysheel.gautam@gov.in

Copy to:-

1. The Pr. CCIT(Exemptions), New Delhi.

V.S. Gaur

(Vinay Sheel Gautam)

JCIT(OSD)(ITA-I)