

Is it mandatory to file ITR & audit report of Trust registered u/s 12A/12AA

For the Trust/ institutes registered u/s 12A/12AA*, Is it mandatory to file ITR and audit report of the Trust/ institutes registered u/s 12A/12AA*? let's try to find answer step by step from the Starting:

1. Need of Registration U/s 12A/12AA*

Any Trust, Institutions established for Charitable and religious purpose, want to claim the exemption U/s 11 and 12 of the Income Tax Act than registration U/s 12A/12AA* is required.

2. Form required to be filed for getting registration

Form 10A or 10AB (as per the new amended Rules 2021), as the case may be required to be filed for obtaining registration under section 12A/12AA*.

3. Filing of Income Tax Return as per section 139(4A)

As per section 139(4A)

“Every person in receipt of income derived from property held under trust or other legal obligation wholly for charitable or religious purposes or in part only for such purposes, or of income being voluntary contributions referred to in sub-clause (iia) of clause (24) of section 2, shall, if the total income in respect of which he is assessable as a representative assessee **(the total income for this purpose being computed under this Act without giving effect to the provisions of sections 11 and 12) exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year.....”**

Means before claiming exemption u/s 11 and 12 if the total income is exceeding the basic exemption limit (currently Rs. 2,50,000), then it is mandatory to file income tax return.

4. Audit of books of accounts:

As per section 12A(1)(b):

“where the total income of the trust or institution as computed under this Act without giving effect to the provisions of section 11 and section 12 exceeds the maximum amount which is not chargeable to income-tax in any previous year, the accounts of the trust or institution for that year have been audited by an accountant..... the report of such audit in the prescribed form duly signed and verified by such accountant.....”

In other words, if the total income is exceeding the basic exemption limit of Rs 250000 (currently) then books of accounts are required to be audited by the Chartered Accountant, And Audit report (Form 10B) require to be filed before the due date, specified for filing of audit report.

5. Consequences on violating the provisions:

The question came now “what if trust or institute not filed return or audit report?”

So the consequences on not filing income tax return or audit report are:

(i). Trust or Institute **will not get exemption under section 11 and 12 for the year until it files Income tax return and audit report, even if it is registered under section 12A/12AA***.

(ii). **Penalty of Rs.100 per day, under section 272A(2)(e)**, may be imposed on failure of filing of Income Tax Return.

Now next question came that “Can trust File the Income tax return after the due date and get exemption if it file income tax return?”

Yes, the trust/Institute can file the return after the due date of filing of the return, But the exemption under section 11 and 12 cannot be claimed. Section 12A of the act prescribe the condition for claiming exemption U/s 11 and 12, and as per 12A(ba),

“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.**”

And time prescribed U/s 139(4A) is the same as prescribed U/s 139(1), i.e. 31st October of the relevant assessment year. (as trust and institute required to file audit report under 12A(1)(b)).

So we can conclude that Trust/Institute require to file Income tax return as well as the Audit Report before the due date to claim the exemption.

Note: * As per the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, Section 12AA is not applicable w.e.f. 01-04-2021 and Section 12AB has been inserted.

Source : TaxGuru