Section 12AB / 80G applications
Mind the sub-clauses and section codes

CA. Prasanth Srinivas

Of late, it is seen that many applications for registration / approval u/s 12AB or 80G of the Income Tax Act, 1961 (the Act) are rejected because, in the electronic application form, wrong section code is selected.

This small write up endeavors to explore the various sub-clauses that are relevant while uploading the applications for registration / approval u/s 12AB / 80G of the Act.

Prelude

Before getting into the subject, we shall have a glimpse of the changes that are brought in vide Finance Act 2020 (later amended by Finance Acts 2023 and 2024) regarding registration / approval u/s 12AB / 80G of the Act:

1. Re-registration of all registrations that existed as on 31.03.2020 (Apply in Form 10A)
2. Regarding fresh registrations
    a. Where activities are not yet commenced – Apply for provisional registration (Apply in Form 10A)
    b. Where activities have commenced – Apply directly for regular registration (Apply in Form 10AB)
3. Regularization of provisional registration within the stipulated time – (Apply in Form 10AB)
4. Renewal of regular registration within the stipulated time – (Apply in Form 10AB)

Relevant provisions as regards registration u/s 12AB of the Act (Section 12A – sub-section 1 – clause (ac)

Sub clause	Statutory provision	Remarks
(i)	where the trust or institution is registered under section 12A [as it stood immediately before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] or under section 12AA [as it stood immediately before its amendment by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (38 of 2020)], within three months from the first day of April, 2021;	Re-registration of old registration in force as on 31.03.2020.
(ii)	where the trust or institution is registered under section 12AB [93]**[***or approved under sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10*]** and the period of the said registration [93]**[***or approval, as the case may be,*]** is due to expire, at least six months prior to expiry of the said period;	Renewal of all regular registrations including the re-registered ones within the stipulated time. ***Many cases fall due for renewal in the next year.***
(iii)	where the trust or institution has been provisionally registered under section 12AB [93]**[***or provisionally approved under sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10*]**, at least six months prior to expiry of period of the provisional registration [93]**[***or provisional approval, as the case may be,*]** or within six months of commencement of its activities, whichever is earlier;	Regularization of provisional registration within the stipulated time.

Sub clause	Statutory provision	Remarks
(iv)	where registration of the trust or institution has become inoperative due to the first proviso to sub-section (7) of section 11, at least six months prior to the commencement of the assessment year from which the said registration is sought to be made operative;	Section 12A registration becomes inoperative when an institution is approved u/s 10(23C) or is notified u/s 10(23EC), 10(46) or 10(46A). This clause enables restoration of section 12A registration.
(v)	where the trust or institution has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, within a period of thirty days from the date of the said adoption or modification;	When objects are changed
(vi)	in any other case, where activities of the trust or institution have— (A) not commenced, at least one month prior to the commencement of the previous year relevant to the assessment year from which the said registration is sought; (B) commenced and no income or part thereof of the said trust or institution has been excluded from the total income on account of applicability of sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, or section 11 or section 12, for any previous year ending on or before the date of such application, at any time after the commencement of such activities,]	Other cases **(i.e., fresh registrations):** A. Where activities have not yet commenced. **(First provisional – then regular)** B. Where activities have commenced. **(Directly regular)**

Relevant provisions as regards approval u/s 80G of the Act (Section 80G – sub-section 5 – clause (vi) – First proviso)

Sub clause	Statutory provision	Remarks
(i)	where the institution or fund is approved under clause (*vi*) [as it stood immediately before its amendment by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020], within three months from the 1st day of April, 2021;	Re-approval of old approval in force as on 31.03.2020
(ii)	where the institution or fund is approved and the period of such approval is due to expire, at least six months prior to expiry of the said period;	Renewal of all regular approvals including the re-approved ones. ***Many cases fall due for renewal in the next year.***
(iii)	where the institution or fund has been provisionally approved, at least six months prior to expiry of the period of the provisional approval or within six months of commencement of its activities, whichever is earlier;	Regularization of provisional approval within the stipulated time
(iv)	where activities of the institution or fund have-- (*A*) not commenced, at least one month prior to the commencement of the previous year relevant to the assessment year from which the said approval is sought; (*B*) commenced, at any time after the commencement of such activities:	Other cases **(i.e., fresh approvals):** A. Where activities have not yet commenced **(First provisional then regular)** B. Where activities have commenced **(Directly regular)** ***Regarding (B) above, during the period from 01.10.2023 to 30.09.2024, due to a very careless drafting error, there was no provision in the Act to grant 80G approval to an assessee that had commenced activities, had 12AB or 10(23C) registration and had claimed exemption u/s 11 or 10(23C). Applications in such cases were rejected and many litigations are pending. It is hoped that CBDT would take steps to mitigate this genuine hardship.***

Amnesties and Condonations

General amnesty was in force till 30.06.2024 for condoning delays in filing the above forms. With effect from 01.10.2024 commissioners are empowered to condone delay on a case-to-case basis.

Conclusion

The above write up is intended only to illustrate, in a very simple manner, the relevant legal provisions for easy understanding. Readers are requested to read the relevant legal provisions thoroughly before venturing further.

-Send your valuable feedbacks to ssayyarandco@gmail.com or WhatsApp No. 9447125731-