Presentation on Issues in ITR 7 data filling by taxpayers

Table of contents

Who is required to file Return of income in ITR-7

Rule 12(g) of the Income Tax Rules specifies that, in case of a person including a company whether or not registered under section 25 of the Companies Act, 1956, and who are required to file the return under **sub-section (4A) or sub-section (4B) or sub-section (4C) or sub-section (4D) or sub-section (4E) or sub-section (4F) of section 139** needs to furnish the return of income in ITR-7.

Problems associated with filing of ITR 7

1. It has been noticed that the below mentioned status is filing the ITR-7:
   - Co-operative Society – Correct ITR to be used is ITR 5
   - Individual - Correct ITR to be used is ITR 1 to 4
   - HUF - Correct ITR to be used is ITR 1 to 4
   - Family Trust - Correct ITR to be used is ITR 5
2. Return filed without claiming any exemptions as per the subsection (4A) to (4F) of Section 139.
3. Return filed claiming exemptions u/s 10 or Section 11 without furnishing the necessary particulars of exemption and / or not e-filed audit report and necessary forms as applicable .

Steps taken to reduce Filing errors

- Income of certain assessee are exempt and are not required to file return of income (even in ITR-7). These assessee have filed the Return in ITR 7 to claim the refund of TDS. Hence, the clauses of Section 10 which have been mentioned in Circular 18/2017 as exempted from TDS have been included in the ITR-7 e-filing utility to enable such assessee to file the return or file rectification request and claim exemption to get the refund of TDS.

Sections mentioned in circular 18/2017

- Few defective rules have been placed at e-filing, to enable the assessee to furnish required information in the return and to compute the Exemptions appropriately.
- Dropdown status has been modified in the ITR- 7 e-filing utility. The options like Individual, HUF, Co-operative Society and Family Trust will be removed and new Status added for Society registered under Society Registration Act 1860 to enable computation of tax at applicable rate shortly.
- Customized intimations are sent to assessee u/s 143(1) and rectification, giving the reasons for variance in the computed values.

Major Defects in ITR filed by assessee and Notices u/s.139(9) issued

Defect description	Elaboration of the defect
Assessee has not provided the Registration details u/s 12A/12AA in Schedule Other Details and has claimed Deduction/ Exemption under section 11 in the return of income	Claim of exemption/deduction u/s 11 is applicable to an assessee registered u/s 12A/12AA. The details of the same needs to be provided in the Schedule Other details.
The income of the trust or institution exceeds the maximum amount chargeable to tax and has claimed exemption u/s 11 but has not furnished the audit report Form 10B.	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 the section 11 and 12 exceeds the maximum amount chargeable to tax, the accounts of the trust or institution has to be audited. The audit report Form 10B, has to be e-filed before or along with the return of income.
The trust or institution has claimed exemption u/s 10(23C)(iv) or 10(23C)(v) or 10(23C)(vi) or 10(23C)(via) and has not furnished the audit report Form 10BB.	As per proviso of section 10(23C), where the total income of the fund or trust or institution or university or other educational institution or hospital or other medical institution as computed under this act without giving effect to the clauses of section 10 exceeds the maximum amount chargeable to tax, the accounts of the trust or institution has to be audited. The audit report has to be e-filed before or along with the return of income.
Assessee claiming exemption u/s 10(23C)(iiiad) or 10(23C)(iiiae) has not furnished the aggregate annual receipts in Schedule Other details.	Every university or other educational institution or hospital or other medical institution is exempt only in case the aggregate annual receipts does not exceed 1 crore. Hence this information is required to be furnished in the return of income.

Major Defects in ITR filed by assessee and Notices u/s.139(9) issued

Defect description	Elaboration of the defect
Assessee is General public utility(GPU) as referred u/s 2(15) and the object is advancement of any other general public utility and involves activities in the nature of trade, commerce or business and the amount of annual aggregate receipts from such activities is not furnished in Schedule Other details.	If the assessee is running an Institution and one of the object is advancement of **Any Other Object** of general public utility as per the proviso to section 2(15) involving activities in the nature of trade, commerce or business, then the amount of annual aggregate receipts from such activities has to be furnished in the ITR 7. If the aggregate annual receipts from activities of advancement of any other object of general public utility in the nature of trade, commerce or business referred to in proviso of 2(15) is more than 25 lakh for AY 2015-16 and earlier years or 20% for AY 2016-17 onwards, activity of the assessee is not a charitable purpose as per section 2(15) of the Income Tax Act.
Assessee is registered as a Political Party as per details in the return of income filed but has not furnished required details in Schedule LA.	Mandatory details u/s 13A have not been furnished in Schedule LA like -- The Political has to be audited, Report u/s 29C of the People Representation Act has to be furnished to concerned authority etc.
Assessee is registered as an Electoral trust as per details in the return of income filed but has not furnished required details in Schedule ET.	Mandatory details u/s 13B have not been furnished in Schedule ET like – The Electoral Trust has to be audited etc.
The name mentioned in the Return of income does not match with the name as per the PAN (Permanent Account Number) data base.	The assessee is required to enter the correct name in the return of Income as per Permanent account Number (PAN) allotted. In case of name change the same has to be updated in PAN data base.

Major Defects in ITR filed by assessee and Notices u/s.139(9) issued

Defect description	Elaboration of the defect
Return of income filed is ITR-7 form but the status mentioned in the return is "Individual or HUF"	Rule 12(g) of the Income Tax Rules specifies that, in case of a person including a company whether or not registered under section 25 of the Companies Act, 1956, and who are required to file the return under sub-section (4A) or sub-section (4B) or sub-section (4C) or sub-section (4D) or sub-section (4E) or sub-section (4F) of section 139 are required to furnish the return of income in ITR-7. Hence "Individual" and "HUF" should not file return in ITR 7.
Assessee has claimed exemptions under the clauses of Section 10 in Schedule Part BTI. However the details of exemptions u/s 10 has not been furnished in Part A - General (1).	Assessee has to furnish information in Schedule Part A Gen of the return under "Details of the projects/institutions.." including Name of Project & Institution and Clause of section 10 under which Exemption is claimed. In Schedule Part BTI for the claim of exemption u/s 10, the income eligible for exemption has to be entered under "Amount of income exempt under any clause of section 10, to the extent that is included …". The amount of exemption has to be entered in the row relating to the clause of Section 10.
No Income is offered in the Schedules in ITR form 7 and has claimed TDS/TCS.	As per Rule 37BA of the Income Tax Rules, 1962, read with Section 199 of the Income Tax Act, 1961, credit of tax deducted at source shall be given for the assessment year for which such income is assessable. In order to claim TDS/TCS, the corresponding receipts/ income, on which the TDS/TCS has been made should be reflected in the return of income and exemptions claimed as per applicable provisions.

Major Defects in ITR filed by assessee and Notices u/s.139(9) issued

Defect description	Elaboration of the defect
Assessee has furnished the return claiming amount accumulated or set apart for specified purpose as prescribed u/s 11(2). However the Details of accumulation and its Investments/deposits made u/s 11(5) has not been furnished in Schedule I and Schedule J. Further Form 10 has to be e-filed within due date for filing Return.	Schedule I and J has to be appropriately filled in, giving the details of amount accumulated year-wise and the forms and modes of Investment/Deposits made under section 11(5). The assessee should furnish Form 10, stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart. This report is required to be furnished before the due date of filing the return.
Assessee has not shown income in any of the heads of income in Schedule Part B-TI, but assessee has entered Sl. No. 7 being aggregate of income referred to in section 11 and 12 derived during the previous year excluding Voluntary contribution	Schedule Part B-TI should be properly filled along with appropriate income schedules. The Gross Income being total of the heads of income in Schedule Part B-TI cannot be less than the income entered at Sl.No.7 of Schedule Part-B-TI being income referred to under section 11 and 12 of the Income tax Act. Further the Exemptions under all fields in Schedule Part BTI cannot exceed the Gross Income (note: Gross Income is not GTI)
Assessee has filed return in Form Type 7, and has not claimed any deduction/exemptions under section 11 or clauses of Section 10 or Section 13A or Section 13B in Schedule Part B-TI of the return.	Return filed under section 139(4A) or 139(4B) or 139(4C) or 139(4D) is eligible for benefit of deduction/ exemption under section 11 or clauses of section 10 or section 13A or Section 13B. Assessee has not furnished the particulars of income eligible or claimed as exempt in Schedule Part BTI. In case the assessee is not an institution required to file return under the above provisions, an appropriate return Form Type may be used, as is applicable.

Statistics of cases considered defective (AY 2013-14 to AY 2016-17)

Sl. No	Defect in the return	No of Cases	Action taken
1	The income of the trust or institution exceeds the maximum amount chargeable to tax and has claimed exemption u/s 11 or 10(23C)(iv)/(v)/(vi)/(via) but has not e-filed the audit report Form 10B/10BB	80,497	Return was processed and exemptions claimed was not allowed and demand raised.
2	No Income is offered in any Schedules in ITR form 7 and has claimed TDS/TCS.	13,927	Return was processed not allowing the credit for TDS/TCS
3	Assessee has not provided the Registration details u/s 12A/12AA in Schedule Other Details and has claimed Deduction/ Exemption under section 11 in the return of income filed in ITR 7	26,938	Return was processed and Section 11 exemptions was not allowed and demand raised.
4	In ITR 7 Assessee has claimed exemptions under the clauses of Section 10 in Schedule Part BTI. However the details of exemptions u/s 10 has not been furnished in Schedule Part A Gen - "Personal Information" and Schedule "Other Details".	5,635	Return was processed without allowing the section 10 exemptions and demand raised.
5	The name mentioned in the Return of income does not match with the name as per the PAN (Permanent Account Number) data base.	1,277	Return was treated as invalid.

Major Demands raised due to inconsistency in the return for exemption u/s 11

- 12A/12AA registration details are not provided in Other details in the return
- Audit Report in Form 10B is not E-filed. Section 12A(1)(b) requires the assessee to furnish the audit report along with the return of income, in case the total income of the trust as computed, without giving effect to the provisions of the section 11 and 12 exceeds the maximum amount chargeable to tax.
- Assessee claiming exemption u/s 11(2)[i.e. Amount accumulated for Specified Purpose], but has not e-filed the Form 10 before the due date specified under sub-section (1) of section 139 for furnishing the return of income.
- Form 9A for AY 2016-17 onwards is not e-filed within the stipulated time.
- As per provisions of Sec 11(7), Exemption under Section 10 (other than clause (1) and clause (23C)) will not be allowed to the person registered under section 12A/12AA

Demands raised due to inconsistency in the return for exemption u/s 10

- Institution claiming exemption under section 10(23C)(iiiad) or 10(23C)(iiiae), has not provided the details of the aggregate annual receipts in Part A- General(2) or the aggregate annual receipts is greater than Rs. 1 Crore.
- Institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of section 10(23C) has not e-filed Form 10BB. The audit report is not furnished along with the return of income.
- Section 10 (other than clause (1)) will not be allowed from the total income of the person in receipt thereof for that previous year, for the Institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of section 10(23C).
- The clauses of section 10 details under which the assessee is claiming exemption is not furnished in Schedule Part A General (1), under “Details of the projects/institutions run by you”.
- The income eligible for exemption has to be entered under “Amount of income exempt under any clause of section 10, to the extent that is included …”.
- The amount of exemption should be entered in the appropriate row relating to the clause of Section 10.

Essential conditions which are checked for allowing exemption u/s 13A or 13B

- The exemption u/s 13A will be allowed to the political party if the following conditions are satisfied. These details should be furnished in Schedule LA.
  - Books of accounts are maintained.
  - Record of each voluntary contribution in excess of twenty thousand rupees is maintained
  - The accounts are audited
  - Report under sub-section (3) of section 29C of the Representation of the People Act, 1951 for the financial year is submitted
- The exemption u/s 13B will be allowed to the Electoral trust if the following conditions are satisfied. These details should be furnished in Schedule ET.
  - Books of accounts are maintained.
  - Record of each voluntary contribution is maintained
  - Record of each person to whom voluntary contribution has been distributed is maintained
  - The accounts are audited
  - Report as per rule 17CA(14) is furnished to the Commissioner of Income-tax or Director of Income-tax

Statistics of Demands raised due to inconsistency in the return

Sl. No.	Assessment year	No of Cases	Demand Amount in Crores
1	2013	14,245	2,013.53
2	2014	33,205	9,259.04
3	2015	25,059	8,506.79
4	2016	7,595	121.72

Statistics based on the reasons of demands (for AY 2013-14 to AY 2016-17)

Sl. No	Reasons	No of Cases
1	Exemption u/s 11 claimed but not registered u/s 12A	29,126
2	Exemption u/s 10 claimed but details not mentioned in Personal info schedule	3,805
3	Form 10B not filed along with the return where Section 11 is claimed	4,141
4	10(23C)(iiiad) or 10(23C)(iiiae) claimed and aggregate annual receipts is exceeding Rs. 1 crore	337
5	Form 10 not e-filed when income is accumulated or set apart	2,387
6	Deemed application claimed but option in writing to the AO not exercised / Form 9A not e-filed	1,012
7	General Public utility and aggregate annual receipts exceeds Rs. 25 lakhs	630
8	No exemptions claimed and no tax computed	19,996
9	Cost of acquisition and cost of improvement claimed by the trust	972
10	15% accumulation claimed more than available amount or aggregate income referred to u/s 11 & 12 is not offered	998