GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
*****

RAJYA SABHA
UNSTARRED QUESTION NO. 702

TO BE ANSWERED ON TUESDAY THE 08th February, 2022/23 MAGHA, 1943 (SAKA)

"Verification of tax benefit claims by trusts/societies"

QUESTION NO. 702 SHRI SYED NASIR HUSSAIN

& SHRI MALLIKARJUN KHARGE:

"Will the Minister of FINANCE be pleased to state: -

(a) the current mechanism for verification of tax benefit claims by Trusts/Societies under Section 12A, 80G and 10(23(c) etc of Income Tax Act;
(b) whether it is a fact that "Provisional Registrations" are granted to these trusts without any verification by the IT department;
(c) if so, under which provision of the Income Tax Act are these provisional registrations being granted;
(d) the steps being taken to prevent Trusts from making fake and fraudulent claims to get the provisional registration; and
(e) whether this helps in money laundering and if so, the total number of such cases found so far?

ANSWER

MINISTER OF STATE IN THE MINISTER OF FINANCE

(SHRI PANKAJ CHOUDHARY)

Answer (a)

The process of verification of the tax benefit claims by the Trusts and Societies under section 12A, 80G and 10(23C) of the Income-tax Act, 1961, begins when the Income Tax Returns (ITR) are filed by Trusts / Societies.

While filing the ITR electronically, it is mandatory for the trust or institution claiming exemption to file audit report electronically in prescribed forms (10B, 10BB, etc.) one month prior to due date of filing of return of income. The CPC while processing cases u/s 143(1) checks the statutory compliance before allowing the claim of exemption.

Further, scenarios have been included in the Computer Aided Scrutiny Selection (CASS) for selection of cases for scrutiny. CASS is a centralized system for selection of cases of scrutiny based on information in ITR, IT forms, TDS/TCS, data as reported by third parties, data received from various other agencies.

During the course of scrutiny assessments, verification of the tax benefit claims by the Trusts / Societies is undertaken by Assessing Officer, and claim allowed only in fit cases.

Further to the above, while granting re-registration, the Principal Commissioner or Commissioner of Income-tax has been granted powers to call for any documents or information or make inquiries to, *inter-alia*, verify the genuineness of activities of such trust or institution.

Answer (b) Yes

Answer (c)

The provisions of the Income-tax Act, 1961 (the Act), under which an order for granting provisional registration or approval by the Principal Commissioner or Commissioner may be passed, are as follows:

S.No.	Provisional registration under provision	Provision for granting provisional registration by Principal Commissioner or Commissioner
1.	Section 12AB	Clause (c) of sub-section (1) of section 12AB of the Act.
2.	Clause (23C) of section 10	Clause (iii) of the second proviso to clause (23C) of section 10 of the Act.
3.	Section 80G	Clause (iii) of second proviso to sub-section (5) of section 80G of the Act.

II. It may be noted that such provisions do not grant powers to the Principal Commissioner or Commissioner to call for any documents or information or make inquiries.

III. Further, all the trusts or institutions which are granted provisional registration under clause (23C) of section 10, section 12AB and section 80G the Act are required to seek registration at least six months prior to expiry of the period of provisional registration or approval or within six months of commencement of its activities, whichever is earlier, under clause (iii) of the first proviso of clause (23C) of section 10 or sub-clause(iii) of clause (ac) of sub-section (1) of section 12A or under clause (iii) of first proviso to sub-section (5) of section 80G as the case may be. Thus, provisionally registered or approved trusts and institutions are required to apply for re-registration within 6 months of commencement of activities.

IV. While granting re-registration in such cases, the Principal Commissioner or Commissioner has been granted powers to call for any documents or information or make inquiries to, *inter-alia*, verify the genuineness of activities of such trust or institution.

Answer (d)

The procedure for granting provisional registration or approval under clause (23C) of section 10, section 12AB and 80G respectively has been notified in the Official Gazette vide Notification No 19/2021 bearing GSR 212 (E) dated 26.03.2021 which, inter-alia, provided for a common application form 10A for entities seeking provisional registration or approval.

II. The said notification provides that if, at any point of time, it is noticed that Form No. 10A has not been duly filled in by not providing, fully or partly, or by providing false or incorrect information or documents required to be provided while making an application for seeking provisional registration or approval under clause (23C) of section 10, section 12A or section 80G, the Principal Commissioner or Commissioner, after giving an opportunity of being heard, may cancel the approval granted for provisional registration.

III. Hence as is evident from the above, requisite checks and balances have already been provided in the procedure in order to prevent trusts and institutions from making fake and fraudulent claims to get the provisional registration

Answer (e)

No, in view of checks and balances as referred to in “a” “c” and “d” above.
