




ASSESSMENT OF CHARITABLE TRUSTS OR INSTITUTIONS- NGOs, NPOs

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CHARITY

- Concept of NGOs, NPOs
- Historical Significance of Charity
- Meaning and concept of Charity

Charitable Purpose - Sec 2(15)

- Charitable Purpose - Limbs
 - i. Relief of the poor
 - ii. Education
 - iii. Medical Relief
 - iv. Advancement of any other general public utility
 - v. Preservation of environment and preservation of monuments or places or objects of artistic or historic interest includible within the ambit of “charitable purpose” under Section 2(15)



Formation of Charitable Institution

- As a Trust
- As a Society
- As a Section 8 Company



FORMATION AND REGISTRATION AS A PUBLIC CHARITABLE TRUST


1. What is Trust?
2. Public vs Private Trust

Types of Trust under Income Tax Act, 1961

- Income derived from property held under trust wholly for charitable or religious purposes
- Income derived from property held under trust in part only for such purposes
- Income derived from property held under trust created for a charitable purpose which tends to promote international welfare

Income from Property held for Charitable or Religious Purposes

- What is “Exempt”?
- Limbs of Sec 11-
 - a. Income derived from the property held under Trust
 - b. Wholly for charitable or religious purposes
 - c. to the extent such income is applied
 - d. to such purposes in India
 - e. income so accumulated or set apart



Registration of Trusts or Institutions u/s12A(a), 12AA

- Mandatory Requirements
- Procedures



Effect of Non Consideration of Application within time

- Can it be deemed Registration?

Carrying activity is necessary for registration?

- At the stage of commencement carrying activity not relevant. (Dharmasans Thapak Sangh vs CIT(2008)118TTJ).

Cancellation of Registration

- Cancellation of approval u/s 10(23C)(vi) can be a ground to cancel registration u/s 12AA(3)
- Prospective v/s Retrospective
- Incase of applicability of proviso to section 2(15)
- Others

Applied

- Meaning
 - Features of the expression 'applied'.
- (Radhasoami Satsang Sabha (1954) 25 ITR 473 (All))

“SUCH PURPOSES IN INDIA”

- Brief Introduction
- Meaning and requirements
- Application in India is must
- Position of Book Entries

Voluntary Contribution

- Meaning and concepts
- Types of Voluntary Contribution
- ❖ Voluntary Contribution with specific direction
- ❖ Voluntary Contribution without specific direction

Income computation-whether gross or net ?

- CIT vs Programme for Community Organisation (2001) 248 ITR, affirming decision of Kerala High Court.
- Krishi Utpadan Mandi Samiti & Anr. v. DCIT (2011) 131 ITD 335 (Luck 'A' - Trib) : (2011) 136 TTJ (Luck 'A' - Trib)635

Filing Form No.10 - whether mandatory ?

- Brief Introduction
- Changes made by Finance Act of 2015

Set off and carry forward of losses of earlier years

- Meaning of Deficit
- Position in case of charitable trust or institution

Instances held as Application

- Establishment expenses
- Payment of Taxes
- Capital expenditure is an application
- Writing of loan advanced to weaker section
- Repayment of debt
- Loan scholarship given
- Expenses incurred for defending functionaries and members

Rectification of Trust Deed

- Whether objects can be rectified?
- Procedure for seeking rectification
- The effect of Court Order

Surplus is a bar to claim exemption ?

- CIT vs Andhra Pradesh Road Transport Corporation (1986) 159 ITR 1 (SC)
- Addl. CIT vs Surat Arts Silks Cloth Mfg. Assoc. (1980) 121 ITR 1 (SC)
- ITO vs Dharamshila Cancer Foundation & Research Centre (2010) 128 ITD 1 (Del 'H'-Trib) : (2010) 134 TTJ (Del 'H'-Trib) 573

Inter charity is application?

- CIT v Saraladevi Sarabhai Trust (1988) 172 ITR 698 (Guj),
- CIT v Hindustan Charity Trust (1983) 139 ITR (Cal)

Anonymous Donation

- Brief Introduction
- Exempted Entities
- Rate of tax

Educational Institutions /Hospitals - Section 10(23C)(iiiac), (iiiad)

- Brief Introduction
- Whether exemption applies to each institution?

CIT vs Children Education Society (2013) 358 ITR 373 (Kar)

Salary or Remuneration to Trustees

- Limbs of remuneration
- Is it allowable as 'Application'?
- When can exemption be denied?

Filing of Return of income are statutorily required ?

- Director of Income Tax (E) vs Malad Jain Yuvak Mandal Medical Relief Center (2001) 250 ITR 488 (Bom)
- Adinatar Educational Institution vs Addl. CIT (1997) 224 ITR 310 (SC)

Taxation on income of charitable trusts

- Brief Introduction
- Governing Provisions
- Circumstances where taxation arises for charitable trusts or institutions
- Manner of taxing on income

Violations u/s 13(2)(a)-13(2)(h)

- Whether results in forfeiture of exemption?
- Recent Issues

Accreted Income- Tax on Charitable Trust or Institution when it ceases to exist

- Accreted Income - Meaning and Scope
- When Accretion income is taxed
- Rate of tax on accreted income
- Accreted tax is a final tax
- Time limit for payment of tax
- Interest on non-payment of tax
- Assessee in default

Circumstances when accreted income applies

- Conversion into any form which is not eligible for grant of registration under section 12AA
- Merged with any entity other than an entity which is a trust or institution having objects similar to it and registered under section 12AA
- Transfer of assets on dissolution

Circumstances deemed to have been converted - Sec 115TD(3)

- Registration granted under 12 AA has been cancelled or
- Adopted or undertaken modification of its objects which do not confirm to conditions of registration

Tax payable - Sec 115TD(1) & (4)

- Normal taxes
- Accreted income tax
- Time limit for payment of tax - Sec 115TD(5)
- Final payment of tax - Sec 115TD(6)
- No deduction under any other provision

Meaning of date of conversion

- Explanation to section 115 TD
- Date of conversion means
 - The date of the order cancelling the registration under section 12AA in a case referred to in clause (i) of sub- section(3) or
 - The date of adoption or modification of any object in a case referred to in clause (ii) of sub section(3)
 - Meaning of specified date

Assessee in default - Sec 115TF

- Principal Officer
- Trustee of the Trust or Institution, and
- The Trust or Institution
- Person receiving any asset forming part of computation of accreted income



- Thank You