

Assessment, Levy and Recovery of Contribution Costs Rules

TAMILNADU

India

Assessment, Levy and Recovery of Contribution Costs Rules

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Assessment, Levy and Recovery of Contribution Costs Rules Published vide Notification No. G. O. Ms. NO. 4920, Revenue, dated 30th November 1960 - S.R.O. No. A-713 of 1960 Original rules published in Part V of Fort St. George Gazette, dated 21st December, 1960 (Page 685). G. O. Ms. NO. 4920, Revenue, dated 30th November 1960 - S.R.O. No. A-713 of 1960. - In exercise of the powers conferred by clauses (i) and (xv) of sub-section (2) of section 116 read with sub-sections (1), (2) and (3) of section 94, clause (i) of section 92 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959), the Governor of Tamil Nadu hereby makes the following rules, namely:-

1.

These rules may be called the Assessment, Levy and Recovery of Contribution Costs Rules.

2.

(1) Every religious institution shall, from the income derived by it, pay to the Commissioner, annually a contribution calculated on a percentage of its income at the rates specified in the table below:- [The Table [Substituted by G. O. Ms. No. 275, C. T. & R. E., dated the 16th July 1997.]]

Item No.	Annual income of the religious institution	Rate of Contribution (Per cent)
1	2	3
(i)	If the annual income of the religious institution does not exceed Rs. 5,000	Nil
(ii)	If the annual income of the religious institution exceeds Rs. 5,000 but does not exceed Rs. 20,000.	4

(iii)	If the annual income of the religious institution exceeds Rs. 20,000 but does not exceed Rs. 60,000.	5
(iv)	If the annual income of the religious institution exceeds Rs. 60,000 but does not exceed Rs. 2,00,000.	6
(v)	If the annual income of the religious institution exceeds Rs. 2,00,000 but does not exceed Rs. 5,00,000.	7
(vi)	If the income of the religious institution exceeds Rs. 5,00,000.	11

Note. - This rate will be adopted for levy of contribution from fasli 1407 onwards.

2A.

After arriving on the income as calculated under rule 2, a further sum shall be deducted in lieu of pooja expenses at the rates specified in the table below:-[The Table [Table was substituted by G. O. Ms. No. 275, C. T. & R. E., dated the 16th July 1997.]]

Item No.	Income of the religious institution	Amount of deduction (in rupees)
1	2	3
(i)	Income exceeding Rs. 5,000 but not exceeding Rs. 20,000	Rs. 2,000 or the actual cost of Oru Kala Poojajawhichever is less
(ii)	Income exceeding Rs. 20,000 but not exceeding Rs. 60,000	Rs. 3,000 or the actual cost of Oru Kala Poojajawhichever is less
(iii)	Income exceeding Rs. 60,000 but not exceeding Rs. 1,00,000	Rs. 5,000 or the actual cost of Oru Kala Poojajawhichever is less
(iv)	Income exceeding Rs. 1,00,000 but not exceeding Rs. 2,00,000	Rs. 7,500 or the actual cost of Oru Kala Poojajawhichever is less
(v)	Income exceeding Rs. 2,00,000	Rs. 10,000 or the actual cost of Oru Kala Poojajawhichever is less

2B.

Every religious institution shall, from the income derived by it, pay to the Commissioner annually audit fees calculated on a percentage of its income at the rate specified in the table below:-[The Table [Table was substituted by G. O. Ms. No. 275, C. T. & R. E., dated the 16th July 1997.]]

Item No.	Annual income of the religious institution	Rate of Audit Fees (Per cent)
1	2	3
(i)	If the annual income of the religious institution does not exceed Rs. 5,000	Nil
(ii)	If the annual income exceeds Rs. 5,000 but does not exceed Rs. 5,00,000.	1-1/02

(iii) If the annual income exceeds Rs. 5,00,000

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(2) "Income" under these rules means gross income minus the amounts specified below:-(a) Revenue paid to Government and cesses paid to Panchayat Unions or Panchayats or Municipalities or the Corporation of [Chennai] [Substituted for the word 'Madras' by the City of Madras (Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996)].(b) Taxes and licence fees paid to Panchayat Unions, Panchayats, Municipalities or the Corporation of [Chennai] [Substituted for the word 'Madras' by the City of Madras (Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996)].(c) Expenditure incurred for the following purposes connected with the direct cultivation of the land held by the religious institution not exceeding 25 per cent of the income derived from such property

- (i) Maintenance of, or repairs to, irrigation works;
- (ii) Seeds or seedlings;
- (iii) Manure;
- (iv) Maintenance of cattle for cultivation;
- (v) Maintenance and repair of agricultural implements; and
- (vi) Wages for ploughing, sowing, watering, transplantation, harvesting, thrashing and other agricultural operations.

(d) Expenditure on sundry repairs to buildings not exceeding 10 per cent of the annual rent derived therefrom or the actual expenditure whichever is less. (e) Share of receipts from "Archanai" fees or offerings, which the servants of the religious institutions are entitled to receive under any order of Court of Law or recognised by custom or usage. (f) Cost of collection of rents not exceeding 10 per cent of the amount actually collected in cases where the religious institution employs special staff solely to attend to the work relating to collection of rents due to the religious institutions. In cases where such special staff is not appointed for such purpose, a proportionate amount may be allowed with reference to the nature of work turned out in collections; and (g) Sale-proceeds of immovable properties and rights if such proceeds are reinvested to earn income for the religious institution.

Explanation 1. - The following items of receipts shall not be deemed to be "income" for purposes of this rule:-(i) Advances and deposits recovered and loans taken or recovered; (ii) Deposits made as security by employees, lessees or contractors and other deposits, if any; (iii) Withdrawals from Banks or of investments; (iv) Recovery of costs awarded by Courts; (v) Sale proceeds of jewels, vahanams, provision, livestock purchased for use of religious institutions and other articles belonging to the religious institution; (vi) Donation in cash or kind made by the donors as contributions to capital; (vii) [Omitted by G.O. Ms. No. 96, Revenue, dated 17th January 1973.]; (viii) Actual dry age of the receipts of agricultural produce or other articles from immovable properties or 2 per centum of such receipts received during the fasli year whichever is less.

Explanation 2. - In respect of any remunerative undertaking of a religious institution, only the net profit shall be taken as income. In respect of unremunerative undertakings of a religious institution, such as a school, college, hospital, poor home or orphanage and other similar institutions, the grants given by the Government or a local body or donations received from the public or fees collected from pupils, shall not be taken as income.

Explanation 3. - Receipts in kind other than those referred to in item (vi) in Explanation 1 shall be deemed to accrue as income on the date of the sale thereof and shall be valued at the amount realised by such sale.

Explanation 4. - Receipts in kind from immovable properties and consumed or utilised by the religious institution shall be valued at the market prices of the commodities.

3.

The assessment of contribution payable by a religious institution shall be made for each fasli year on the basis of the income derived by it during the previous fasli year.

4.

The trustee or the Chairman of the Board of Trustees of every religious institution shall submit to the Commissioner on or before the 31st of August in each fasli year:-(a)a statement showing the receipts and charges (cash and kind) relating to the fasli year immediately preceding under each head of account;(b)a statement showing the amounts claimed as deductions under items (a) to (g) in sub-rule (2) and the assessable income;(c)a statement showing the expenditure incurred under the various items under "cost of production" and the income derived from property in direct cultivation of the religious institution; and(d)a statement showing the special staff employed solely for work relating to collection of rents due, the designation of the different posts, the monthly pay and allowances of the members of such special staff and the amount of rents collected by them.

5.

The forms in which the statement referred to in rule 4 should be submitted, shall be such as may be specified by the Commissioner.

6.

If the trustee or the Chairman of the Board of Trustees of any religious institution fails to submit the statements referred to in rule 4 on or before the 31st August to each fasli year or within such further time as may be allowed by the Commissioner or submits statements which, in the opinion of the Commissioner, are not correct or complete, the Commissioner may assess the income of such institution to the best of his judgement and the amount assessed shall be deemed to be the income of the religious institution for the purpose of section 92(1) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959).

7.

[Omitted by G.O. MS. No. 195, dated the 25th January 1964]

8.

The amount of contributions and audit fees payable under sub-sections (1) and (2), respectively, of Section 92 and the costs and expenses payable under section 93 by a religious institution* shall be communicated to the trustee thereof or to the Chairman of the Board of Trustees, as the case may be, by a notice which shall be delivered in person or by registered post, acknowledgement due:Explanation. - In arriving at the amount payable by a religious institution, fractions of a rupee, which are not in multiples of five [naya paise] [Now paise.], shall be rounded to the nearer multiple of five [naya paise] [Now paise.].

9.

Where an amount referred to in rule 8 above has escaped assessment, the Commissioner shall issue a notice as laid down in the proviso to section 94(1) within a period of five years following the year to which such amount relates.

10.

Where the institution has an Executive Officer or Manager appointed under the provisions of a scheme or under any provision of the Act, the notice may be served on him in the manner laid down in Rule 8.

11.

When the notice is not served either because of refusal to receive it or because of evasion of service, it may be served in the manner laid down in Rule 8 on any servant or other person who is in charge of the institution.

12.

If the person in charge mentioned in Rule 11 refuses or evades service, the notice shall be affixed to the front door of the temple or math or of the temple or math to which the specific endowment is attached.

13.

The time allowed under sub-section (2) of section 94 for preferring objections or for the payment of the amount shall be calculated from the date of receipt of such notice by the trustee or other person referred to in rules 7, 9 and 10 and in case of refusal or evasion from the date of refusal or from the date of the affixture under Rule 11, as the case may be.

14.

Every objection preferred by a trustee or other person referred to in rule 10 to a notice issued under section 94(1) shall contain a statement in a concise form of the material facts on which he relies.

15.

Where a trustee or other person bases his objections or relies, as evidence in support thereof, upon any document in his possession or power, he shall annex such document or an authenticated copy thereof to the objection.

16.

Where any such document is not in the possession or power of the trustee or the other person, he shall, if possible, state in whose possession or power it is.

17.

Where a copy of document is furnished under Rule 14, the trustee or the other person shall, if so required by the Commissioner, produce or cause to be produced the original.

18.

The requisition referred to in sub- section (3) of section 94 shall-(i)if it relates to the recovery of contributions including audit fees payable under section 92, be in Form I annexed hereto; and(ii)if it relates to the recovery of costs and expenses payable under section 93, be in Form II annexed hereto.

19.

If in a year, a religious institution is unable to pay the contribution or audit fee or both, due to bona fide financial difficulties caused by mismanagement of the previous trustees or due to other reasons beyond its control, the Commissioner may, if the amount does not exceed Rs. 300 (Rupees three hundred only) in respect of annual contribution and Rs. 150 (Rupees one hundred and fifty only) in respect of audit fee, for reasons to be recorded in writing, by order waive the collection of such amount in full or in part or direct that such amount or part thereof be collected in instalments not exceeding ten:Provided that, in cases where the annual contribution and audit fee due exceed Rs. 300 and Rs. 150, respectively, the Commissioner shall obtain the sanction of the Government before passing orders under this rule.

20.

(1)(a)In respect of any miscellaneous demand issued by the Commissioner to recover the costs and expenses incurred on legal proceedings in respect of any religious institution, if the institution is unable to pay the same due to bona fide financial difficulties or to other reasons beyond its control, the Commissioner may, if the amount of the miscellaneous demand does not exceed Rs. 500 (Rupees five hundred only), for reasons to be recorded in writing by order, waive the collection of such amount in full or in part or direct that such amount or part thereof be collected in instalments not exceeding ten.(b)If the amount of the miscellaneous demand exceeds Rs. 500 (Rupees five hundred only), the Commissioner may, with the previous sanction of the Government, waive the collection of such amount in full, or in part or direct that such amount or part thereof be collected in instalments not exceeding ten.Note. - (1) Full details such as designation of the person who does actually the collection work, nature of the actual work done by him, his salary and the amount collected by such staff and 10 per cent of the amount collected should always be

furnished.(2)Regarding cost of production, the total extent of Pannai Cultivation, income derived therefrom, 10 per cent of the same, details regarding the nature of repairs to irrigation works and cost should be furnished in addition to the cost of seedlings, manure, maintenance of ploughing cattle.(3)Money order commission, insured charges, etc., for remitting the contribution commission for cashing the cheques or hundies sent by the trustees should be borne by the trustees themselves.(4)The number of the demand, the name of the temple and the village, taluk and district in which it is situated should be mentioned in making the remittance or sending communications with reference to the demand.(5)Receipt will not be issued for remittance made through the Revenue Department.

Annexure Form I Requisition under sub-section (3) of section 94 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959), for the recovery of Contributions including audit fees payable under section 92 of the said Act To The Collector,.....District. Whereas the persons described in the fourth column of the schedule annexed hereto being trustees of the religious institutions mentioned in the corresponding entries in the third column thereof, have failed to pay, out of the funds of the said institutions, the amounts mentioned against their names in the sixth column of the said Schedule being contributions payable by them under section 92 of the said Act, you are hereby requested to recover the said amounts and to pay the same to me in accordance with the provisions of the said section 94.

Schedule

Serial Number	Taluk and Village	Name of the religious institution	Name, father's name and address of the trustee or other person	Fasli to which the contribution relates	Amount of contribution showing separately the sums levied under-section 92(1) (General contribution and under section 92(1) contribution for meeting the cost of audit	Demand number and date	Date of service of demand
1	2	3	4	5	6	7	8

(Signed).....Commissioner, Hindu Religious and Charitable Endowments, [Chennai] [Substituted for the word 'Madras' by the City of Madras (Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996).]. Form II Requisition under sub-section (3) of section 94 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959), for the recovery of costs and expenses payable under section 93 of the said Act To The Collector,.....District. Whereas the persons described in the fourth column of the Schedule annexed hereto being trustees of the religious institutions mentioned in the corresponding entries in the third column thereof, have failed to pay, out of the funds of the said institutions, the amounts mentioned against their names in the sixth column of the said Schedule being the costs and expenses payable by them under section 93 of the said Act, you are hereby

requested to recover the said amounts and to pay the same to me in accordance with the provisions of the said section 94.

Schedule 2

Serial Number	Taluk and Village	Name of the religious institution	Name, father's name and address of the trustee or other person	Suit, petition or other proceeding in respect of which the costs and Expenses were incurred	Amount of costs and the expenses	Demand number and date	Date of service of demand
1	2	3	4	5	6	7	8

(Signed).....Commissioner, Hindu Religious and Charitable Endowments, [Chennai] [Substituted for the word 'Madras' by the City of Madras (Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996).] Exemption for Payment of Contribution and Audit Fees (G.O. Ms. No. 749, C.T. & R.E. Department, dated the 6th July 1987). - In exercise of the powers conferred by section 4 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959) and in supersession of the Revenue Department Notification II-1 No. 3806, dated the 19th August 1961, published at page 1306 of Part II, Section-1 of the Fort St. George Gazette, dated the 30th August 1961, the Governor of Tamil Nadu hereby exempts the religious institutions, the annual income of which is less than [Rupees five thousand] [Raised from rupees two thousand to rupees five thousand - vide G.O. Ms. No. 275, C.T. & R.E. dated the 16th July 1997.] from payment of contribution and audit fees under sub-sections (1) and (2) of section 92 of the said Act from fasli 1397 onwards (i.e., 1st July 1987 onwards).