

## RELIGIOUS OR CHARITABLE TRUST.

### INTRODUCTION :-

- ① A Religious Trust is a Trust established for the Purpose of Religious Activity.
- ② For Example :- Hindu Temple, Mosque, Gurdwara, church.
- ③ Various Exemptions, deduction, allowance are allowable under Income Tax Act, 1961 to such Religious Trust.
- ④ It is because, General Publics are emotionally attached with their religion and they regularly contributes fund in such Religious Trust.
- ⑤ Due to Emotions of General Publics, Income Tax Authority not Questioned easily the entire income of such Religious Trust.
- ⑥ Charitable Trust is a Trust established for the Purpose of charity.
- ⑦ Charity means :- Relief of Poor, Education, Yoga, Medical relief, Hospital etc.
- ⑧ For example :- Schools, colleges, Hospitals, educational institution etc.
- ⑨ Various Exemption, deduction, allowance are allowable to Such Trust.
- ⑩ After allowing huge deductions, we will learn Tax Treatment of Such Religious or charitable Trust in this chapter.

## TAXABILITY OF RELIGIOUS OR CHARITABLE TRUST :-

PARTICULARS

(Amount in ₹)

Total Gross Receipts of the Trust XXXX

less : Corpus deduction (XXXX)

XXXX

less : Adhoc deduction @ 15% on above (XXXX)

XXXX

less : Application of Income (XXXX)

XXXX

less : Amount not received till now and carried forwarded to year of receive with 1 year of grace. (XXXX)

XXXX

less : Amount remain unutilised and carried forwarded to next f.y (XXXX)

XXXX

less : Amount carried forwarded for a specific purpose for upto 5 years with 1 year of grace. (XXXX)

XXXX

Net Receipts of the Trust Taxable <sup>↳</sup> XXXX  
as per applicable Slab rates

Add: Anonymous donation of Religious Trust XXXX

Add: Anonymous donation exempted  
Partiontion in case of charitable  
Trust. (not for Religious Trust  
because Anonymous donation for  
Religious Trust is Taxed eslab)

Total Taxable Income of Trust @ Slab Rate XXXX

## CONCEPT OF ANONYMOUS DONATION :-

- ① All Anonymous donation for a Religious Trust Taxable at applicable Slab rate after deduction or allowance or exemptions, if any.
- ② In case of charitable Trust, Anonymous donation is split into 2 parts :-
  - (A) Taxable at Slab rate
  - (B) Taxable at 30% of Tax rate.
- ③ IT means a Specified portion will allowed as exemption and Such exempted portion will goes to Slab rate rather than 30% rate of Tax.
- ④ Specified portion is ₹ 100,000 or 5% of Total donation, whichever is higher.
- ⑤ Now Remaining Anonymous donation will be Taxable at 30% Tax rate.
- ⑥ Remaining Anonymous donation is calculated as follows :-

Total Anonymous donation ₹ XXX

less : Exempted Portion for charitable  
Trust i.e. ₹ 100000 or  
5% of Total donation ] H

(XXX) → Taxable at  
Slab rates.

Remaining Anonymous donation Taxable at XXX  
30% Tax rate

## Conditions for Availing Exemptions by a Religious or a charitable Trust. [Section 11]

- (1) The Income yielding from a property must be held under a Trust. and held wholly for religious / charity.
- (2) Such Trust be created wholly for charitable / religious and other lawful Purposes.
- (3) Such Trust must be a registered Trust according to Income Tax Act , 1961.
- (4) The Books of Accounts of the Trust must be Audited if its income (before claiming Exemption u/s 11 or 12 ) exceeds exempted ceiling of ₹ 2,50,000 . and Such Audit Report must be Submitted 1 month Prior to the Prescribed due date of filing Return of Income.
- (5) Application of Income must be for the prescribed purpose of the Trust.
- (6) There are prescribed areas / purposes which shall be Treated as Application of Income.
- (7) Return of Income of Such Trust must be filed within due dates for claiming various Exemptions.
- (8) A religious Trust should not be created for the benefits of any Particular / fix religious caste or community.
- (9) No Income should be Applied directly or indirectly for the Benefits of Specified Persons.

## Meaning of charitable Trust :-

① charitable Purposes includes :-

- A) Relief of Poor.
- B) Education.
- C) Yoga.
- D) Medical Relief. (Hospital, small clinic, etc.)
- E) Preservation of Environment.
- F) Preservation of Monuments or historic things.
- G) Advancement of any other object of General Public utility, upto 20% of the receipt.

② However, Advancement of any other object of General Public utility excludes :-

- A) Any Activity or Services related to Trade, commerce or business.
- B) If the receipt from such General Public utility activity exceeds 20% of the Total Receipt of a charitable Trust.
- ③ Income of an Approved Scientific Research Association is also exempted u/s 10(21), if such income is applied wholly for the purpose of such Association.
- ④ Income of a big University, hospitals or of other educational institution is exempted u/s 10(21c), if such income is applied wholly for their respective purpose.

- (5) Benefit to a Particular Fix Caste or Religious Community not be Treated as charity.
- (6) Charitable Purpose also includes Promotion of Sports and Games : Therefore , an association engaged in the Promotion of Games and Sports can also claim exemption u/s 11.
- (7) A Trust or institution meant for the benefits of Scheduled Castes , Scheduled Tribes , Backward classes etc. is also eligible to claim such Exemptions.
- (8) A Trust which promotes international welfare in which India is interested is also eligible to claim such Exemptions after an order from CBDT.

## Application of Income.

Following outflows are to be Treated as Application of Income for a Trust or Institution :-

- ① Outflow in the nature of Revenue or Capital.
- ② Payment of Tax by a Trust or by a Institution.
- ③ Repayment of loan by a Trust or by a Institution.
- ④ Loan granted to poor persons for education or medical Treatment.  
→ However when Such loan will received back then it will be Treated as Income of the Trust / Institution.
- ⑤ Amount of excess application of funds of last year can be Set off and Treated as Application of Income of C.Y.
- ⑥ Any Accrual basis expenses shall also be an Application of Income.
- ⑦ Depreciation on asset shall be an Application of Income if Purchase Cost of such asset not claimed as outflow.
- ⑧ Installment of an asset shall be an Application of Income if Purchase cost of such asset not claimed as outflow. However Interest Payment shall be allowable.
- ⑨ Donation to a "registered" Trust other than Corpus donation.

## Deferment of Application of Income :

→ Section 11(1) :-

- ① Amount of Income not received till now and Carried forwarded to the year of receipt with 1 year grace.
- ② Amount of Income not utilised in C.Y and Carried forwarded to next F.Y.
- ③ Amount of Income carried forwarded for a Specific Purpose upto 5 years with 1 year of Grace, Any Court Period shall be exclude from 5 year limit.
- ④ If Such Carried forwarded Amount remains unspent then it shall be Taxable as follows:-
  - In Point ① → Taxable after 1 year of Grace.
  - In Point ② → Taxable after Expiry of Next F.Y.
  - In Point ③ → Taxable after Expiry of 1 year Grace or if utilised in other purpose.
- ⑤ Such Specific Purpose must be disclosed in the Return of Income.
- ⑥ Return of Income should be filed within due date u/s 139(1).
- ⑦ Due Date is as follows:-
  - 31<sup>st</sup> July of A.Y → If Tax Audit is not Required.
  - 31<sup>st</sup> October of A.Y → If Tax Audit is Required.

Situations where Deferment of Income for a Specific Purpose shall be withdrawl :-

- ① When Income so carried forwarded is applied for the Purpose other than Specified Purpose.
  - And Such Income shall be Taxable in the Year in which Such Income is Applied in other Purpose.
- ② When Income which is carried forwarded fail to invested in the Specified areas.
  - And Taxable in the Year in which Such Income ceases to invested.
- ③ When Income which is carried forwarded is donated to any other Trust / institution.
  - And Taxable in the Year in which donation is made.
- ④ However upon an Application by a Trust / institution, A.O may allow to apply Such carried forwarded Income in other Purpose.

## Procedure for Registration [Section 12AB]

After receiving Application for registration from a Trust or Institution, Principal Commissioner or Commissioner shall registered Such Trust or Institution as follows:-

- ① If the Trust or Institution is already registered then within 3 months from the end of Applied month Principal Commissioner or Commissioner shall Pass an order of Registering the Trust or Institution for 5 years in writing.
- ② In case Registration comes to expire or provisional registration or inoperative registration or changes in object, procedure are as follow:-
  - (A) P.C or CIT shall call necessary documents or information or make necessary inquiry.
  - (B) After examine Such documents or information or objects of such Trust or Institution pass an order of Approval or Rejection within 6 month from the end of the Applied month.
  - (C) In Case Rejection, an opportunity of being heard shall be Given.
  - (D) If no order is passed within 6 months then Such Trust or Institution deemed to be registered.

- ③ In any other case, P.C or CIT shall Pass an order within 1 month from the end of Applied month for registration for 3 years (A.4).

## Cancellation of Registration :-

Principal Commissioner or CIT shall Cancel the registration of a Trust or Institution and Pass an order in writing after Giving an opportunity of being heard in the following cases :-

- ① If the objects / Activity are found to be not genuine in nature.
- ② If the objects / Activity are being carried out other than charity or religious Purpose.
- ③ If the carried forwarded Income for Specific Purpose is applied in other Purpose or not invested in Specific areas.
- ④ If the Income is directly or indirectly applied for specified Person.
- ⑤ If the Prescribed law, rules, Compliance are not followed by a Trust or Institution.

## Forfeiture of Exemptions [Section 13]

In the following cases exemptions granted to a Trust or Institution shall be forfeited and Taxable at Max. Tax Rate : -  
(MMR)

- ① Income from Private Purposes : Income from the Property held under a Private Religious Trust which does not ensure for the benefit of General Public.
- ② Income for the benefit of Particular Religious Community :- If any part of Income is utilised for the benefit of a Particular Religious Community then exemptions shall be forfeited.
- ③ Funds are not invested in the Specified areas :- If the Income is carried forwarded for a Specific Purpose and not invested in the Specified areas then Exemptions shall be forfeited.
- ④ Income Applied for the benefit of Specified / Interested Persons :- If the Income of a Trust or Institution is applied directly or indirectly for the benefit of Specified / Interested Person then exemptions shall be forfeited.

## Anonymous donation [Section 115 BBC]

- ① Anonymous donation means any voluntary contribution, where a person receiving such contribution does not maintain a record of the identity i.e. name and address of the person making such contribution.
- ② For a religious Trust all the anonymous donation received shall be taxable at slab rates.
- ③ For a charitable Trust or Institution all the anonymous donation received shall be taxable @ 30% Tax rate over and above to a Specified limit.
- ④ It means for a charitable Trust or Institution such Specified limit shall be taxable at slab rates, not exempted.
- ⑤ Specified limit is as follows:-  
5% of the Total donation received  
or ₹ 100,000  
— whichever is higher.
- ⑥ Practical Representation is as follows:-

Total Anonymous Donation Received ₹ XXXX

less : 5% of The Total donation received (₹ XXXX)  
or ₹ 100,000 — whichever is higher.

Taxable Anonymous donation ₹ XXXX

@ 30% for charitable Trust / Institution

- ⑦ Corpus donation is not anonymous donation.