

Analysis of amendments related to Charitable and religious trusts

Finance Act 2017 had made some major changes relating to Charitable and religious trusts. These amendments have far reaching impact on the taxation of Charitable and religious trusts. There were five amendments which are affecting Charitable and religious trusts.

Here, we have analyzed these amendments made vide Finance Act 2017 which have impacted the Charitable Trusts and religious trusts:

1) First Amendment

Following Explanation 2 shall be inserted after the renumbered Explanation 1 to sub-section (1) of section 11 by the Finance Act, 2017, w.e.f. 1-4-2018:

Explanation 2.- Any amount credited or paid, out of income referred to in clause (a) or clause (b) read with Explanation 1, to any other trust or institution registered under section 12AA, being contribution with a specific direction that they shall form part of the corpus of the trust or institution, shall not be treated as application of income for charitable or religious purposes.

Analysis:

Any contribution by a charitable or religious trust or institution to any other trust or institution registered u/s 12AA, with a specific direction that it shall form part of corpus of recipient trust/institution shall not be treated as application of income u/s 11 for the donor trust/institution.

It means that corpus donations shall not be considered as an application of income.

2) Second Amendment:

Following clause (ab) shall be inserted after clause (aa) of sub-section (1) of section 12A by the Finance Act, 2017, w.e.f. 1-4-2018:

'the person in receipt of the income has made an application for registration of the trust or institution, in a case where a trust or an institution has been granted registration under section 12AA or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)], and, subsequently, it has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, in the prescribed form and manner, within a period of thirty days from the date of said adoption or modification, to the Principal Commissioner or Commissioner and such trust or institution is registered under section 12AA”

Analysis:

It means where a trust or an institution has been granted registration and subsequently it has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, it shall be required to obtain fresh registration by making an application within a period of thirty days from the date of such adoption or modifications of the objects in the prescribed form and manner.

3) Third Amendment:

Following clause (ba) shall be inserted after clause (b) of sub-section (1) of section 12A by the Finance Act, 2017, w.e.f. 1-4-2018:

(ba) the person in receipt of the income has furnished the return of income for the previous year in accordance with the provisions of sub-section (4A) of section 139, within the time allowed under that section.

Analysis:

Section 12A has been amended so as to provide for further condition that the person in receipt of income chargeable to income-tax shall furnish the return of income within the time specified u/s 139(4A) of the Income Tax Act.

4) Fourth Amendment:

A new clause (x) in section 56(2) has been inserted to broaden the scope and to cover the charitable trust under its ambit

56(2)(x) where any person receives, in any previous year, from any person or persons on or after the 1st day of April, 2017, -

(a) any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum;

(b) any immovable property, -

(A) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;

(B) for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees, the stamp duty value of such property as exceeds such consideration:

Analysis: In order to prevent practice of the Charitable or Private Trusts of receiving money or property for inadequate consideration or without consideration, Finance Act 2017 introduced clause (x) in section 56(2). With the insertion of this section the money or the property

received **by any person for inadequate consideration** or without consideration in excess of Rs. 50,000 shall be liable to income-tax under the head 'Income from other sources' in the hands of the recipient.

Consequently, now if any property is being received by the charitable trust or by any private trust for inadequate consideration or without consideration in excess of Rs. 50,000 then it will chargeable to income-tax under the head 'Income from other sources' under section 56(2)(x) in the hands of the recipient trust.

5) Fifth Amendment:

(5D) 'No deduction shall be allowed under this section in respect of donation of any sum exceeding TWO thousand rupees unless such sum is paid by any mode other than cash.'

Analysis:

Finance Act 2017 amended section 80G so as to provide that no deduction shall be allowed under the section 80G in respect of donation of any sum exceeding Rs. 2,000/- unless such sum is paid by any mode other than cash. Earlier this limit was Rs. 10,000/-. The Government has taken this step in order to provide cash less economy and transparency.

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