Charitable Trusts - Tax Compliances

The Central Chinmaya Mission Trust (CCMT) organized a webinar on the topic of "Tax Compliances for a Charitable Trust" on 26-9-2020 covering various provisions of Income Tax and GST Law. The program was specifically for the benefit of the trustees, executive committee members and auditors of Chinmaya Mission centers all across India. The speakers of the webinar were from M/s Jayesh Sangharjka & Co. LLP, Statutory Auditors of CCMT. Mr. Margav Shukla deliberated upon various provisions of Income Tax and Mr. Milan Shah explained the provisions of GST law with respect to Charitable Institutions. The webinar was inaugurated by *Pujya Swami Swaroopananda ji*. *Pujya Swami ji* emphasized that in today's time it is imperative for any organization to be legally and tax compliant. The important aspects of the program are summarized in form of an article for the benefit of all Mission Centers in India.

Income Tax

Re-registration u/s 10(23C), 12A/12AA and 80G

The Budget 2020 came with a provision that all existing Trusts registered under section 12A/12AA/10(23C) and 80G of the Income tax Act will have to apply for re-registration. As on date, the Income Tax Department does not have a complete data of trusts registered u/s 12A/12AA and 80G, more so in case of old registered trusts. Therefore, to have a complete record of every institution and digitize the data, a provision was introduced in the last budget where every registered trust is now required to re-register. The understanding is that it will be a simple procedure with basic information to be submitted online and a Unique ID shall be allotted to every organization. The dates for this process were prescribed, however, with outspread of Covid-19 it was deferred and finally with the enactment of 'The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act 2020' the revised dates are as under:

Compliance	Date
Re-Registration u/s 12A/ 12AA (12AB henceforth), 10(23C)/80G	Within three months from 1-4-2021 (1-4-2021 to 30-6-2021)

The important change in the new provisions is that the registration u/s 12A/12AA/10(23C) and 80G will be valid for five years. Now, the re-registration process will have to be carried out every five years. Application for renewal -registration can be done 6 months prior to the expiry of registration.

Other Important Provisions

- From the next financial year, 2021-22, every trust or institution registered u/s 80G of the Income Tax Act will have to file a statement of all donations received. On the basis of statement filed by the trusts, the donor will be allowed deduction u/s 80G. Therefore, it is utmost necessary to have the complete record of the donor including the address and PAN.

- If a person gives donation in excess of Rs. 2000 in cash, he is not eligible to deduction u/s 80G in his return. This restriction is for the person giving the donation and not the Trust accepting it.

- Under no circumstances an amount Rs 2 lacs or more should be collected in cash from a single person or with respect to single transaction or with respect to one event. (Eg. A trust cannot accept donation in cash of Rs. 2 lacs from one person even though the donor provides complete details including PAN and address. Such transaction attracts equivalent amount of penalty.

- If any expenditure in excess of Rs. 10000 is incurred in cash, same cannot be claimed as application (expenditure) of income. Therefore, no payment in excess of Rs. 10000 should be made in cash.

- A trust cannot give a corpus donation to another trust. If given, same cannot be claimed as application of income.

- Tax deduction at Source (TDS), wherever applicable on any payment (capital or revenue expenditure) should be deducted without any failure. Non deduction of tax will lead to 30% disallowance of the expenditure. Eg. If Professional fee of Rs. 1 lac is paid to a doctor, 10% of the amount is to be deducted at source as income tax. If the tax is not deducted or deducted but not paid then Rs. 30000/- (30% of Rs. 1 lac) will not be considered as application.

- All Trusts registered u/s 12A/12AA have to file their return within the prescribed due date. If the return is not filed within the due date, benefits u/s 11 and 12 not available for that year

- No loan should be received or paid in cash in excess of Rs. 20000/-

- While having any transaction with the founder of the trust, managing trustees, trustees, or manager by whatever name called, it should be at the fair value. Eg. If any property is made available to the trustee for his use, it should not be without adequate rent / compensation.

- If any amount is paid to the founder of the trust, managing trustees, trustees, or manager in lieu of his services to the trust, the amount should be reasonable. Eg. Excess Salary paid for the services provided by the trustee.

Goods and Service Tax (GST)

The law of GST has come into effect from 1-7-2017. All transactions unless expressly exempted are chargeable to tax. With regard to taxability of Charitable Trust under GST, exemption is provided in notification no. 12/2017. As per the said notification, Services by an entity registered under section 12AA of the Income Tax Act by way of 'Charitable Activities' are exempted. Charitable Activity is specifically defined and it includes **advancement of religion, spirituality or yoga**. Accordingly, any service provided in relation to religion, spirituality or yoga is not taxable under GST.

Registration & Liability to pay tax

Any person / entity having aggregate turnover of more than 20 lacs and providing any taxable supplies is required to get registered under the GST law and pay the tax on taxable supplies at the applicable rates. The limit is Rs. 10 lacs in certain sates. For calculation of turnover of Rs. 20 lacs, even the amount of exempted supplies is to be considered. However, if the supply is exclusively of exempt supplies without any taxable transaction, there is no requirement of registration. Following is the illustrative list of supplies for calculating the turnover limit of Rs. 20 lacs and taxability under GST.

Nature of Transaction	Whether to be included in Turnover	Taxable / Exempt
Donations (General or Corpus)	No	Not Taxable as it is not a supply
Fee from participants for any religious, yoga or meditation program	Yes	Exempt
Residential programs or camps where fee charged includes cost of lodging and boarding where program is for advancement of religion, spirituality or yoga	Yes	Exempt
Sale of Books	Yes	Exempt
Sale of CDs / Pendrives	Yes	Taxable
Upahar / Gift Articles	Yes	Taxable
Interest Income from Fixed Deposits and Saving Bank	Yes	Exempt
Life Membership Fees	Yes	Taxable
Annual Membership Fees	Yes	Taxable
Rent Income from Commercial Property	Yes	Taxable
Renting space for Advertisement Hoardings	Yes	Taxable
Health Care Service (Medical Services)	Yes	Exempt
Sale of Medicines	Yes	Taxable
Services by Educational Institution to students, faculty and staff	Yes	Exempt
Sale of Text Books	Yes	Exempt
Sale of Stationery	Yes	Taxable
Sale of Uniform	Yes	Taxable

Above is only an illustrative list. If the total turnover exceeds Rs. 20 lacs and the trust has any taxable services, it shall have to register under GST and pay the taxes of taxable supplies. However, there if are no taxable supplies, there is no requirement of registration, unless there is chargeability under any other provision of the GST law.

Other important provisions

- GST Registration can be obtained voluntarily as well, where the turnover does not exceed Rs. 20 lacs. The registration and GST compliance enables to avail input tax credit on the GST paid on purchases / expenses used for providing taxable supplies.
- An entity which is not registered in GST cannot sale goods outside the state.
- If an organization is registered under GST, the tax on Security Guard Services is to be paid on reverse charge by the organization availing the services. However, if the service provider is a body corporate, the tax is to be paid by the service provider.
- There is no GST liability on Donations received, Corpus or General Donation.
- If any transaction is taxable under GST, mere by accepting the consideration as donation does not make the transaction exempt. If the transaction is taxable, tax has to be paid irrespective of the manner in which the amount is collected.
- If majority of the services provided or goods sold are exempt, the input tax credit (ITC) on common purchases and expenses should be disallowed on pro-rata basis. It is advisable to claim credit only on those items which have one to one relation (eg, credit of input tax on Purchase of CDs against sale of CDs). Common credits, GST on common inputs / expenses which are not directly attributable to taxable supplies may not be claimed to avoid future litigation where the amount is not substantial.

Regular GST Compliance Dates

GST Return	Description	Due Date
GSTR1	Details Outward supplies of goods and Services • If supplies in excess of Rs. 1.5 Crore (Monthly) • Other cases (quarterly)	 11th of subsequent month 1 month from the end of quarter
GSTR3B	Summary of Inward and Outward supplies & payment of taxes (monthly)	20th of the subsequent month

We hope the readers will find the information useful and all Mission Centers will strictly adhere to the laws of the country. Pujya Gurudev was very particular in money and legal matters; it is our duty that we comply each and every law in its true spirit.

Hari Om!