TAXATION OF CHARITABLE INSTITUTIONS

Optimetz Advisory

Restriction on exemption to certain charitable institutions [Section 10(23C)]

Section 10(*23C*) provides for exemption to various funds/institutions including the following:

a) Any institution established for charitable purposes and approved by prescribed authority having regard to the objects of the institution and its importance throughout India or in a State or States. [section 10(*23C*)(*iv*)]

b) Any institution wholly for public religious purposes or wholly for public religious and charitable purposes and approved by the prescribed authority having regard to *inter alia*, the manner in which the affairs of the institutions are administered. [section 10(*23C*)(*v*)]

c) Any university or educational institution approved by the prescribed authority. [section 10(*23C*)(*vi*)]

d) Any hospital or other institution approved by the prescribed authority. [section 10(*23C*)(*via*)]

[hereinafter referred to "specified entity"].

The exemption is available only if the specified entity applies its income wholly and exclusively to the objects for which it is established. [Third proviso to section 10(*23C*)]

Hitherto, application of income included donation by the specified entity to another charitable institution and such donation could be a "corpus donation" or a "non-corpus donation". A twelfth proviso has been inserted in section 10(*23C*) with effect from assessment year 2018-19 to provide that in respect of specified entities, any amount credited or paid out of income to another charitable institution registered under section 12A as a voluntary contribution with a specific direction that it shall form part of the corpus of the donee shall not be treated as application of income.

Paraphrasing, the twelfth proviso applies if the following conditions are fulfilled:

a) there is a fund or institution;

b) the fund or institution is referred to in section 10(*23C*)(*iv*)/(*v*)/(*vi*)/(*via*) ("specified entity");

c) the specified entity credits or pays any amount out of its income;

d) the credit or payment is to an entity registered under section 12AA ("donee");

e) the credit or payment is in the nature of a voluntary contribution;

f) the contribution is made with a specific direction that it shall form part of the corpus of the donee.

If the aforesaid conditions are fulfilled, the amount so credited or paid shall not be treated as application of income to the objects for which the specified entity is established.

Registration under section 12A/12AA

The proviso covers payment of corpus donation to a trust or institution registered under section 12AA and would even apply in respect of trust or institution which may be entitled to exemption under section 10(*23C*)(*via*). It does not cover institutions registered under section 12A or institutions not registered at all under section 12AA.

Non-specified entities

The proviso applies to corpus donations by entities referred to in section 10(*23C*)(*iv*)/(*v*)/(*vi*)/(*via*). It does not apply to such donations by the following entities:

a) Any university or educational institution which is wholly or substantially financed by the Government. [section 10(*23C*)(*iiiab*)]

b) Any hospital or any other institution which is wholly or substantially financed by the Government. [section 10(*23C*)(*iiiac*)]

c) Any university or other educational institution with annual receipts not exceeding the prescribed limit. [section 10(*23C*)(*iiiad*)]

d) Any hospital or other institution with annual receipts not exceeding the prescribed limit. [section 10(*23C*)(*iiiae*)]

Thus, such entities may apply their income by giving corpus donation.

Non-corpus donations

The proviso does not bar "non-corpus donations".

[Also *see* **para 3.2**].

Exemption to Chief Minister's Relief Fund [Section 10(*23C*)]

The provisions contained in clause (*23C*) of section 10, provide exemption in respect of income of certain funds which, *inter alia*, include, the Prime Minister's National Relief Fund. However, the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund referred to in sub-clause (*iiihf*) of clause (*a*) of sub-section (2) of section 80G, are not exempt under clause (*23C*).

New sub-clause (*iiiaaaa*) is inserted in clause (*23C*) so as to provide the benefit of exemption also to the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund.

Restriction on exemption in case of corpus donation to other institutions [Section 11]

Income derived from property held under trust wholly for charitable or religious purposes is exempt to the extent to which such income is applied to such purposes in India and where any such income is accumulated or set apart for application to such purposes in India, the income so accumulated or set apart is also exempt to the extent it is not in excess of 15% of the income from such property [Section 11(1)(*a*)].

For the above purposes, it has been consistently held that donations by a charitable institution to another trust are application of income.

a) *CIT* v. *Thanthi Trust* [1982] 137 ITR 735 (Mad) affirmed in *CIT* v. *Thanthi Trust* [1999] 239 ITR 502 (SC)

b) *CIT* v. *Trustees of the Jadi Trust* [1982] 133 ITR 494 (Bom.)

c) *CIT* v. *Hindusthan Charity Trust* [1982] 11 Taxman 135 (Cal.)

d) *CIT* v. *Sarladevi Sarabhai Trust (No. 2)* [1988] 40 Taxman 388 (Guj.)

e) *CIT* v. *Shri Ram Memorial Foundation* [2004] 140 Taxman 263 (Delhi)

f) Instruction No. 1132, dated 5th January 1978

g) Circular No. 8 of 2002, dated 27-8-2002]

Hitherto, a donation constituted application of income notwithstanding that the donation was made with a specific direction that it shall form part of the corpus of the donee.

Section 11 has now been amended with effect from assessment year 2018-19 as follows:

a) *Explanation* below section 11(1)(*d*) is renumbered as *Explanation 1*.

b) *Explanation 2* has been inserted to provide that any amount credited or paid out of income to another charitable institution registered under section 12AA as a contribution with a specific direction that it shall form part of the corpus of the donee shall not be treated as application of income for charitable or religious purposes.

Illustration

Suppose

a) income of a charitable institution is, say, Rs. 100 lakhs

b) application of income to charitable purposes (excluding corpus donations) is Rs. 80 lakhs

c) corpus donation to another charitable trust is Rs. 5 lakhs

In such a case, the income before amendment and after amendment shall be computed as follows:

	Pre-amendment	***Post-amendment***
a) Income	100	100
b) Less: Application of income (excluding corpus donations)	80	80
c) Less: corpus donation	5	-
d) Less: basic exemption (15% of income)	15	15
e) Taxable income [(a)-(b)-(c)-(d)]	Nil	5

Corpus donation

There is no bar on giving a non-corpus donation.

Voluntary contribution

Unlike section 10(*23C*), *Explanation 2* does not refer to the term "voluntary". Hence, on a plain reading, even a non-voluntary corpus contribution would be covered by *Explanation 2*.

Instructions as to corpus donation

In certain cases, depending on the facts, Courts have held that even if a donation is not accompanied by a written instruction from the donor that it is towards corpus, yet it could be regarded as corpus donation depending on facts of the case. To illustrate,

a) If the receipts issued to the donors clearly mentioned that the donations were given towards corpus, then it had to be construed that the contributions were made with a specific direction that they shall form part of the corpus [*N.A. Ramachandra Raja Charity Trust* v. *First ITO* [1985] 14 ITD 230 (Mad.-Trib.); *Mehrangarh Museum Trust* v. *Asstt. CIT* [2014] 48 taxmann.com 129 (Jodh. - Trib.)].

b) If the trust deed clearly provides that donations received by trustees shall be deemed to be accretions to the trust and imposes an obligation on the trustees to hold such donations as part of the corpus of the trust, then contributions could be received only towards corpus of the trust [*Hakmuddin Mulla Hasanbhai Singaporewala Charitable Trust* v. *Fifth ITO* [1985] 23 TTJ 43 (Bom.-Trib.)].

c) If the intention of the donor is to give that money to a trust which will keep it in trust account in deposit and the income from the same is utilised for carrying on a particular activity, it satisfies the definition part of the corpus [*DIT* v. *Sri Ramakrishna Seva Ashrama* [2012] 18 taxmann.com 37/205 Taxman 26 (Kar.)].

d) Donations received towards 'Building Fund' and 'Kayami Fund' (Permanent Fund) were held to be towards corpus [*ITO* v. *Satya Kabir Sahabani Gadi* [1994] 50 TTJ 501 (Ahd.-Trib.)].

e) Contribution received towards specific purpose of construction of Wadi was held to be forming part of corpus [*CIT* v. *Sthanakvasi Vardhman Vanik Jain Sangh* [2003] 131 Taxman 270 (Guj)].

f) Voluntary contributions made by the donors with a specific direction that they were made towards construction of a building in the premises of the assessee for its use [*St. Ann's Home for the Aged* v. *ITO* [1980] 10 TTJ 144 (Bang.-Trib.)].

g) No specific letter was received from the donors that the donations were towards corpus. However, the counterfoil of receipts showed that they were received for construction of temple and Dharamshala. The Tribunal held that the preamble to the trust deed, directions of the donors and the contents of the receipts showed that the donations could be treated as corpus donations [*Shri Vasu Pujiya Jain Derasar Pedhi* v. *ITO* [1991] 39 TTJ 337 (JP. - Trib.)].

h) Although the receipts indicated that the donations were received towards corpus, in some cases the donors had not specifically stated that the donations were towards corpus. The donations were utilized towards the objects of the trust to establish a technical institution. The Tribunal held that the donations were a part of the corpus [*ITO* v. *Sardar Vallabhbhai Education Society* [2012] 26 taxmann.com 174 (Ahd. - Trib.)(TM)].

i) Donation received towards purchase and investment in Sidha Land Project which was a capital project was a corpus donation [*Dharma Pratishthanam* v. *ITO* [1985] 11 ITD 40 (Delhi - Trib.)].

j) Donation towards construction of stadium for indoor games was a corpus donation [*CIT* v. *Indore Table Tennis Trust* [1997] 92 Taxman 199 (MP)].

Thus, difficult and litigatious questions will arise if the donee treats such donations as corpus donations relying on the aforesaid judgments [say, by mentioning on the receipt that the donation is a corpus donation] and the Tribunal/Court upholds the contention of the donee. In such circumstances, the tax department would contend that if the donation is a corpus donation for the donee, then having regard to the identical language in *Explanation 2*, even the donor should be held to have given a corpus donation. To avoid such litigation, it would be advisable for the donor institution to give precise instructions that it is a "non-corpus" purpose.

Registration under section 12AA

Explanation does not apply to donations to entities whose income is exempt under section 10(*23C*) if such institutions are not registered under section 12AA.

Explanation applies to institutions registered under section 12AA. It does not cover institutions registered under section 12A.

The amendment does not apply to donations made to an institution which is not registered under section 12A/12AA. In such a case, it appears that the corpus donation may constitute application of income.

Application/accumulation of income under New Explanation 2

In case of a charitable trust, it can

a) apply its income in the same year ("primary application"); or

b) apply its income in subsequent year but opt for it being treated as application of income in the first year [*Explanation 1(2)* to section 11(1)] ("deemed application").

c) accumulate or set apart for accumulation to charitable or religious purposes in India to the extent the income so accumulated or set apart is not in excess of 15% of the income ("basic exemption"); or

d) accumulate the income under section 11(2) and apply it for charitable purposes ("secondary application);

e) utilise corpus donations received to give corpus donations.

The implications of the amendment in above situations are explained below:

Primary application - In this case, in view of the amendment, corpus donation given by an institution will not be treated as application of income.

Deemed application under Explanation 1(2) to section 11(1) - If a charitable institution has opted for the application of income in subsequent year to be deemed as application of income in the first year, even in that event, a donation meeting the aforesaid conditions shall not be regarded as application of income. To illustrate, suppose income of a charitable institution for financial year 2017-18 is Rs.1 crore out of which it has applied Rs. 50 lakhs to charitable purposes during the year 2017-18. If it exercises the option under *Explanation 1(2)* to section 11(1) that application in financial year 2018-19 out of income to the extent of Rs. 35 lakhs shall be treated as application of income in financial year 2017-18, then so far as the said sum of Rs. 35 lakhs is concerned, it cannot be applied by giving a corpus donation to another institution; otherwise, such donation shall not be considered as application of income. If, in this case, the institution gives a corpus donation of Rs. 5 lakhs in financial year 2018-19, then the said sum of Rs. 5 lakhs shall not be treated as income applied towards charitable purposes in financial year 2017-18 and the institution shall be liable to tax on Rs. 5 lakhs.

Basic exemption

Section 11(1)(*a*) reads as follows:

"Income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of fifteen per cent of the income from such property".

The expression "such" means the purposes referred to in the earlier part of the section, that is, charitable or religious purposes. Hence, even the income accumulated or set apart has to be applied towards charitable or religious purposes in India. Now, the amendment states that any corpus donation shall not be treated as "application of income for charitable or religious purposes". Hence, if the accumulated income up to 15% is utilized by a charitable institution for giving corpus donation, then on a literal interpretation, the income could be regarded as applied towards non-charitable/religious purpose, thus, violating the condition that even accumulated income has to be applied towards charitable or religious purposes. A consequence would be that the income of the year to which the basic exemption pertains may become taxable in the said year. To illustrate, if the 15% basic accumulation of assessment year 2014-15 is utilised for grant of corpus donation in assessment year 2018-19, the exemption given in assessment year 2014-15 may be withdrawn on the basis of literal interpretation. This does not appear to be intended and a clarification from the CBDT or a statutory amendment will help in eliminating the exposure.

Secondary application under section 11(2) - In this case, *Explanation* to section 11(2) already provides that any amount credited or paid to any other charitable institution registered under section 12AA or covered by section 10(*23C*)(*iv*)/(*v*)/(*vi*)/(*via*) shall not be treated as application of income. Hence, even under the pre-amendment law, such corpus donations were not permitted out of income accumulated under section 11(2).

Corpus donations given out of corpus donation received - In some cases, the corpus donations received are utilized to give corpus donations to other institutions.

The tax department, often contends that the original corpus donation received is in essence not a corpus donation but income [*see Tewari Charitable Trust* v. *DIT*(*E*) [2014] 49 taxmann.com 45 (Mum. - Trib.); *Dharma Pratishthanam* v. *ITO* [1985] 11 ITD 40 (Delhi-Trib.); *ITO* v. *Abhilash KumariPublicCharitableTrust* [1987] 28 TTJ 523 (Delhi-Trib.)]. If it is held that such donation is income, then on account of the amendment, the corpus donation given will not be regarded as application of income resulting in taxation of the ostensible corpus donation in the year of receipt.

However, if such corpus donation cannot be treated as income, then it appears that the amendment would not apply. This is because, the *Explanation 2* refers to any amount paid or credited to any other charitable institution "out of income referred to in clause (*a*) or clause (*b*) read with *Explanation 1*" of section 11(1). In other words, the *Explanation 2* covers only income referred to in section 11(1)(*a*) and (*b*) and not section 11(1)(*d*). Therefore, it could be argued that corpus donations exempt under section 11(1)(*d*) are not covered under the *NewExplanation 2*.

Mandatory application by a charitable institution upon change or modifications of objects [Section 12A(1)(*ab*)]

Section 12A provides for conditions to be satisfied by a charitable institution for availing of exemption under sections 11 and 12. Hitherto, there was no explicit provision in the Act which mandated a charitable institution to approach for fresh registration in the event of adoption on undertaking modifications of the objects after the registration had been granted.

Section 12A(1)(*ab*) has been inserted with effect from assessment year 2018-19 to provide that where a charitable institution has been granted registration under section 12AA or section 12A and subsequently, it has adopted or undertaken modification of the objects which do not conform to the conditions of registration, it shall be required to take fresh registration.

Further, section 12AA(1) and (2) dealing with the procedure for registration and time limit for registration by the Commissioner have been amended to include an application for registration referred to in section 12AA(1)(*ab*).

Scope of amendment

Paraphrasing, the amendment applies if the following conditions are fulfilled.

a) The charitable institution has been granted registration under section 12AA or has obtained registration at any time under section 12A.

b) The institution has adopted or undertaken modifications of the objects.

c) Such modifications do not conform to the conditions of registration.

If the aforesaid conditions are satisfied, the charitable institution shall not be eligible for exemption under sections 11 and 12 unless the following conditions are fulfilled :

a) The institution has made an application for its registration.

b) The application is made in the prescribed form.

c) The application is made in the prescribed manner.

d) The application is made within thirty days from the date of adoption/modification.

e) The application is made to Principal Commissioner or Commissioner.

f) The institution is registered under section 12AA.

Hitherto, there was a controversy as to whether a charitable trust had to obtain a fresh registration upon modification in objects [*See Mehta Jivraj Makandas & Parekh Govindaji Kalyanji Modh Vanik Vidyarthi Public Trust* v. *DIT* [2011] 12 taxmann.com 335/131 ITD 462 (Mum.-Trib.)].

In *Board of Control for Cricket in India* v. *ITO* [2012] 22 taxmann.com 29 (Mum. - Trib.), it was held that

a) The benefits that flow from registration of an assessee under section 12A, cannot be extended to the amended clauses of the memorandum and rules and regulations;

b) There might be no statutory requirement for intimating the DIT pursuant to changes in the memorandum and rules and regulations but if the assessee does not fulfil its undertaking to furnish the changes, then he cannot claim automatic benefit under sections 11 to 13 of the Act, for those altered objects, rules and regulations. Benefits under the Act cannot be claimed unless the changes are vetted by the authorities.

Further, section 115TD(3) provided for payment of exit tax if a charitable trust did not obtain a fresh registration upon modification of objects not confirming to the conditions of registration. However, there was no specific provision requiring such registration.

In order to settle the controversy and the ambiguity, the aforesaid clause has been inserted.

Adoption/modification of objects

The amendment applies to modification of "objects" and not powers or other amendments such as change in name, registered office, rules and regulations or articles of association, etc.

The amendment applies only if the new objects do not conform to the conditions of registration. If the original certificate of registration is silent then, in certain situations it may be possible to argue that the amendment does not apply to it.

The provision applies if a person "has adopted or undertaken modification of the objects". However, subsequently, the provision requires that the application to be made within 30 days from the date of "said adoption or modification". Having regard to this, it appears that the provision contemplates two situations, namely, (*a*) adoption of objects and (*b*) modification of the objects. This is also supported by the language in *Explanation (i)* to section 115TD. The said *Explanation*, in the context of almost identical language in section 115TD(3)(*ii*), provides that date of conversion means "the date of adoption or modification of any object", suggesting that the provision contemplates the two situations as mentioned above.

As mentioned above, the application for fresh registration has to be made within 30 days from the date of the adoption or modification. Thus, fixing the date of adoption or modification is very important. This date could vary depending upon the nature of the institution, the place where it is situated, the other laws to which it is subject to, the provision in the constitution documents and so on.

To illustrate

a) in case of company licensed under section 8 of the Companies Act, 2013, clause 6 of the license issued to the company in Form INC-17 states that, *"no alteration shall be made to the memorandum of association or in the articles of association of the company, which are for the time being in force, unless the alteration has been previously submitted to and approved by the Registrar"*. In such a case, the date of modification cannot be a date prior to the date of approval by the Registrar of Companies.

b) In case of a charitable trust registered in Maharashtra, the change in the constitution of a trust takes place on the date of adoption of resolution [*Vijay Raghurama Shetty* v. *Baun Foundation*, 2011 (6) MhLJ 711; *see* observations in *Madanrao s/o Nanasaheb Chavan* v. *State of Maharashtra*, 2002 (4) MhLJ 872]. However, if a suit for altering, varying, amending, etc., any instrument of trust is instituted under section 50 of the Maharashtra Public Trust Act, 1950, the modification will be with effect from the date of decree of the Court.

All the requirements for registration under section 12AA(1)/(2) will apply to such "re-registration". Thus,

a) Commissioner should satisfy himself about

I. genuineness of the activities of the trust/institution and

II. objects of the trust/institution

b) He may call for documents or information from the trust/institution in order to so satisfy himself.

c) He can make such inquiries as he may deem necessary

d) He shall give the assessee an opportunity of being heard before passing an order

e) The registration shall be granted or refused within 6 months from the end of the month in which the application is received.

If the Commissioner is so satisfied:

a) he shall pass an order
b) the order shall be in writing
c) the order shall have the effect of granting registration to applicant trust/institution

If the Commissioner is NOT so satisfied:

a) he shall pass an order
b) the order shall be in writing
c) the order shall state that applicant trust/institution has been refused registration

The Explanatory Memorandum states as follows:

> "However, at present there is no explicit provision in the Act which mandates said trust or institution to approach for fresh registration in the event of adoption or undertaking modifications of the objects after the registration has been granted.“

The specific amendment to section 12A and the observations in the aforesaid Memorandum suggest that for the period prior to the amendment it was not mandatory to seek a fresh registration from the Commissioner.

In the pre-amendment period, the Commissioner would attempt to cancel the registration if the objects were altered and his approval was not obtained [*SeeAllahabad Agricultural Institute* v. *UOI* [2007] 163 Taxman 67 (All.); *ITO* v. *Bhansali Trust* [2015] 63 taxmann.com 56/155 ITD 736 (Mum.-Trib.)]. After the amendment, if an assessee does not seek approval its income would not get the benefit of exemption under section 11. Further, the assessee would be liable to exit tax under section 115TD(1) read with section 115TD(3).

It is possible that in a given case, even after the modification of the objects, on an overall basis, they remain by and large the same. However, this fact is no longer relevant and if the modification does not conform to the condition of registration, the assessee will still be required to make an application under the newly inserted section 12A(1)(*ab*).

Consequential amendment in section 12AA [Section 12AA]

Section 12AA(1) and (2) dealing with the procedure for registration and time limit for registration by the Commissioner have been amended, with effect from 1-4-2018, to include an application for registration referred to in section 12AA(1)(*ab*).

Section 12AA(2) provides that the Commissioner has to pass order within six months from the end of the month in which the application was received. This section has been amended, with effect from 1-4-2018, to cover application under new inserted section 12A(1)(*ab*). In *CIT* v. *Society for the Promotion of Education, Adventure, Sport & Conservation of Environment* [2016] 67 taxmann.com 264 (SC), the Supreme Court has held that once an application is made under the said provision and in case the same is not responded to within six months, it would be taken that the application is registered under the provision.

In view of the said judgment, if the Commissioner does not pass an order within the specified time limit of six months, the amended objects should be regarded as approved and fresh registration should be deemed to have been granted.

Modification in requirement to file return of income in case of entities exempt under sections 11 and 12 [Section 12A(1)(*ba*)]

The entities registered under section 12AA are required to file return of income under section 139(4A), if the total income without giving effect to the provisions of sections 11 and 12 exceeds the maximum amount which is not chargeable to income-tax.

The Memorandum explaining the provisions of the Finance Bill states that "there is no clarity as to whether the said return of income is to be filed within time allowed under section 139 of the Act or otherwise.“

In view of the above, section 12A has been amended with effect from assessment year 2018-19 by insertion of clause (*ba*) in section 12A(1) to provide for further condition that the exemption under sections 11 and 12 shall not apply to a charitable institution unless it furnishes its return of income :

a) in accordance with section 139(4A); and

b) within the time allowed under "that section", that is, section 139.

As mentioned above, the Memorandum has observed that "there is no clarity as to whether the said return of income is to be filed within time allowed under section 139 of the Act or otherwise". The amendment provides that the return of income has to be furnished within the time allowed under section 139. Now, section 139(1) provides that in case of any assessee other than a company, it has to file a return of income on or before the due date only if his total income exceeded the maximum amount not chargeable to tax. In a charitable institution whose income is totally exempt under section 11 would not fall under section 139(1). Thus, in the absence of a specific date in section 139(4A), it appears that the matter is still unclear as to the date by which a charitable institution other than a company has to file its return of income.

However, now since the exemption under section 11 is linked with furnishing of return of income within the time allowed under section 139, it becomes imperative for an assessee to file its return of income on time. It appears that notwithstanding the fact that a charitable institution other than a company may not have any income chargeable to tax, it would be prudent to follow the due dates given in *Explanation 2* to section 139(1). A clarification from CBDT would help in removing the ambiguity.

Whether belated return can be filed?

Section 139(4A) does not state that the return of income has to be furnished within the time allowed under section 139(1). This is unlike section 139(3) where it is clearly stated that a return of loss covered under section 139(3) has to be furnished within the time allowed under section 139(1). The absence of these words in section 139(4A) suggests that a charitable institution which has not filed a return of income under section 139(1) may file a belated return under section 139(4). Of course, a clarification to this effect from CBDT will help in avoiding litigation on this count.

In case a charitable institution does not file its return of income within the required time, it may consider an application to the CBDT under section 119(2)(*b*) to condone the delay.

The condition for filing of return of income has been fulfilled or not has to be examined every year. The institution will get exemption in the year in which return of income is filed within the specified time and will not get exemption in the year in which the return is not so filed. In the year in which the return is not so filed, the total income would be computed under general principles of computation applicable to assessees other than charitable institutions eligible to exemption under section 11.

Amendment in section 80G to restrict cash donations [Section 80G]

Section 80G provides for deduction in respect of donations to specified funds, charitable institutions, etc. Hitherto, deduction was not allowed in respect of donation of any sum exceeding Rs. 10,000 unless the sum was paid by any mode other than cash [section 80G(5D)].

Section 80G(5D) has been amended with effect from assessment year 2018-19 to provide that no deduction shall be allowed to the donor under section 80G in respect of donation of any sum exceeding Rs. 2,000 unless such sum is paid by any mode other than cash.

Since the provisions bars only 'cash' donations, on a plain reading, it does not bar donations *vide* bearer cheque.

The amendment

a) applies notwithstanding that the donor has given all details of relevant donation, including name, photograph, PAN Card, etc.

b) applies to the donor who will not get certificate under section 80G in respect of the donation in excess of Rs. 2,000.

c) does not affect the power of the institution to accept donations in excess of Rs. 2,000, subject of course, to implications, if any, under section 115BBC providing for taxation of anonymous donations received by certain charitable institutions.

Extension of powers of survey to charitable institutions [Section 133A]

See **para 11.4**.

Mandatory furnishing of return by certain exempt entities [Section 139(4C)]

See **para 12.1**.

Amendment in scope of appeal to the Tribunal [Section 253]

See **para 16.9**.