CHAPTER 2

PUBLIC CHARITABLE TRUSTS

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CHAPTER 2
PUBLIC CHARITABLE TRUSTS – A THEORETICAL PERCEPTION

2.1 Growth of Public Charitable Trusts:

During the later part of the 19th century the then British Government realized the necessity of the growing educational and social awareness among the people of India and, therefore, for the purpose of regularizing the effort of pioneers, the basic Trusts Act was formulated in the year 1950. The Government of India amended this act in the year 1950 and called it as The Bombay Public Trusts Act, 1950. This Act also covers the Central Act of 1882. Trusts are normally created when the settler of the property transfers property to the Trustees for its usage in the public purposes. A Trust is normally formed to have the confidence which a person reposes in another person to whom he transfers the property with the obligation that the funds that he gets generated are properly utilized for the charitable purposes. The purposes can include the religious purposes as well. Further Trust is commonly understood and explained as the gift of property of an interest in a property to a person or institution by or through the intervention of trustees. The word Trust is defined in the Indian Trust Act as an obligation annexed to the ownership of property and arising out of a confidence
reposed in and accepted by the owner or declared and accepted by him, for the benefit of another, or the other and the owner. The person creating such ownership is called the author of the Trust, that for whom the ownership is created are called the beneficiaries and those who are interested with the ownership for the beneficial management of the beneficiaries are called as Trustees.

2.2 The Bombay Public Trust Act 1950:

This Act was published in Maharashtra Government Gazette Part IV on 14th August 1950. It received the ascent of the President of India on 31st May 1950. The Act was amended a number of times in accordance with the requirements. It was amended by Maharashtra Government, Bombay 47 of 1950, 14 of 1951, 39 of 1951, 28 of 1953, 21 of 1954, 59 of 1954, and 23 of 1955. Further it was modified by the Bombay Public Trusts (Corporations) Order, 1959 and also amended by Bombay 6 of 1960. It was adapted and modified by Bombay Charity Commissioner (Regional Reorganizations) Order, 1960. Also it was adapted and modified by the Maharashtra Adoption of Laws (State and Concurrent Subjects) Order, 1960. Also it was adapted and modified by the Treasurer of Charitable Endowments, Bombay (Reconstitution) Order, 1962.
In addition to all these amendments the subsequent amendment is as under -


The main purpose of this Act is to regulate and to make better provision from time to time as per the amendment for the purpose of smooth and proper administration of the Public Religious and Charitable Trusts in the State of Maharashtra. Chapter I with Sections from 1 to 2A of the Act deal with the preliminary aspects such as Short title, extent, operation, application and Definitions. The provisions of this Act will apply to those classes of Public Trusts other than Charitable Endowments vested in the Treasurer of Charitable Endowment Act of 1890. Chapter II of the Act deals with establishment and states Section 3 and 3A pertaining to Charity Commissioner, Joint Charity Commissioner, Sections 4 and 5 relate to Deputy and Assistant Charity Commissioner, Sections 6 relate to
subordinate Officers, Sections 6A, 6B, 7 and 8 relate to other Officers, Cost of Pay, Pension of Charity Commissioner, Delegations etc. Chapter III of the Act is concerned with charitable purpose and validity of certain Public Trusts. Here the Section pertains to No. 9, charitable purpose. Section 10 relates to Public Trust not to void on the ground of uncertainty, Section 11 relates to Public Trust not be void on the ground that it is void for non-charitable and non-religious purpose and Section 12 explains Public Trust not void on the ground of absence of application and Section 13 deals with the provision of Public Trust not void on failure of specific object of society, etc. ceasing to exist. Chapter IV, Sections 14 to 31 of the Act is concerned with the Registration of Public Trusts. Chapter V of the Act deals with budget, accounts and audit, the Sections for which are from 31A to 34. Chapter VA, Sections 35 to 36B of the Act relates to powers and duties of, and restriction on, trustees. Chapter VI, Sections 37 to 41E of the Act deals with provisions relating to control. Chapter VII, Sections 42 to 56B of the Act deals with other functions and powers of the Charity Commissioner. In the Chapter VIIA, Sections 56C to 56T of the Act there is an amendment of special provision as respects religious and charitable institutions and endowments which vests in, or the management of which vests in, the state government. Further Chapter VIII, Sections 57 to 61 of the Act relates to
Public Trust Administration Fund. Chapter IX of the Act relating to Assessors is deleted. Chapter X, Sections 66 and 67 of the Act deals with Offences and Penalties. Chapter XI of the Act deals with Functions of Charity Commissioners, Procedure Jurisdiction and Appeals. This is explained in Sections 68 to 77. Chapter XII of the Act relates to a number of miscellaneous provisions of the Act. These provisions are contained in Sections 78 to 88. Amongst these Sections, Section 85 was repealed. Besides these Sections there are Schedules A, AA and B.

2.3 **Definition and Meaning**:  

“Public Trust means an express or constructive trust for either a public, religious or charitable purpose or both and includes a temple, a math, a wakf, church, synagogue, agiary or other place of public religious worship, a dharmada or any other religious or charitable endowment and a society formed either for a religious or charitable purpose or for both and registered under the Societies Registration Act, 1860”.³

2.4 **Directory of the Public Trusts**: ⁴

The work of preparing a Directory of Public Trusts registered under the Bombay Public Trusts Act, 1950, was undertaken by the Government

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⁴ Ibid.
and it was published by the Government. Separate volume was published for each district. It contains the following sections:

A – Hindus (including Jains, Buddhists, Sikhs, and other Hindus).

B – Muslims.

C – Parsis.

D – Christian.

E – Others. (Not from above category of specific community)

F – Societies registered under Society Registration Act, 1860 (i.e. Educational Trusts and Medical Trusts etc.).

2.5 Objectives of Public Charitable Trusts:

Charitable Purposes:\5

"[1] For the purpose of this act, a charitable purpose includes-

(1) relief of poverty or distress,

(2) education,

(3) medical relief,

(3A) provision for facilities for recreation or other leisure time occupation (including assistance for such provision), if the facilities are provided in the interests of social welfare and public benefit, and

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(4) the advancement of any other object of general public utility, but does not include a purpose which relates - exclusively to religious teaching or worship."

"[2] The requirement of this section that the facilities are provided in the interest of social welfare shall not be treated as satisfied, unless —

(a) the facilities are provided with the object of improving the conditions of life for the persons for whom the facilities are primarily intended; and

(b) either —

(i) those persons have need of such facilities as aforesaid by reason of their youth, age, infirmity or disablement, poverty or social and economic circumstances, or

(ii) the facilities are to be available to the members of the public at large."

"[3] Subject to the said requirement, sub-section [1] of this section applies in particular or the provision of facilities at village halls, community centers and women institutes, and to the provision and maintenance of grounds and buildings to be used for purposes of recreation and leisure time occupation, and extends to the provision of facilities for those purposes by the organizing of any such activity."
2.6 Voluntary Organizations and Legislation

2.6.1 What is voluntarism?

When a person on his own initiative, does some work for the Society without expecting any returns, it is recognized as Voluntarism. He is a legal entity by virtue of being a Citizen and so does not need any other registration and can work within the facilities made available by 'The Constitution'. There are large numbers of examples of dedicated workers where names are unknown.

1. Railway worker supports 15 street children with education, clothing and food.

2. A Locoshed worker writes songs, plays, street plays for awareness generation.

3. Two young College Students run a primary school for nomadic children.

4. Large number of volunteers works in hospital.

5. An old lady from Dayapur, Kutch, supplied drinking water to bus passengers for 30 years.

Such work in isolation - through noble - remains restricted quality-wise as well as quantity-wise. It is the integrity of such volunteers that forms the physical basis of voluntarism.

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* Report on Workshop on Bombay Public Trusts Act (1950) and Societies Registration Act (1860) and Voluntary Organizations, organized by Action for Agricultural Renewal in Maharashtra, Pune and Cooperative Development Foundation, Hyderabad. (13 February 1999).
2.6.2 Genesis of The Bombay Public Trust Act 1950 : The Terms of Reference for Justice Tendolkar Committee:

When we consider 'The Bombay Public Trust Act of 1950', we realize that the genesis of the act is 'suspicion'. The terms of reference for Justice Tendolkar Committee are self explanatory. These are as follows:

1. The prevailing abuses, malpractices, and defects in the administration of such Trusts and endowments.
2. Measures necessary for removing such abuses, malpractices and defects.
3. Steps to be taken for effective supervision, regulation and control of the administration and management of such Trusts and endowments for Hindus and Jains.
4. Safeguarding co-ordination and the more beneficial use and application of property and funds of such Trusts and endowments, if necessary by enlarging the scope of the doctrine of Cypress and the definition of the term 'Charity'.
5. Suitable machinery to carryout the above objects.

Thus the very basis of deciding about the functioning and management of Trusts was the distrust about the people forming Trusts, trusted by the settler for the benefit of beneficiaries. Result of the Government’s consideration of 'the Report', the notes of dissent; and a draft
bill prepared by legislators is most interesting. In all three acts were passed namely :-

1. The Bombay Public Trust Registration Act.
2. The Parsi Public Trusts Registration Act and

Perhaps if Sikhs and Christians could have had separate Acts for their Trusts and endowments had there been more legislations from these religions. All said and done the enactment clearly reveals the purpose of the Committee that is to control the Religious and Charitable Trusts and endowments. After due consideration a common Act applicable to all communities resulted as present act.

2.7 Important Provisions for Public Charitable Trust and Trustees:

2.7.1 The Bombay Public Trusts Act 1950 and The Bombay Public Trusts Rules 1951 cover important provisions of Trust and Trustees.

Those are briefed here below:

1. Registration of Trust – As per the provisions in the Act (Section 18) (Supplement 2) an application in the prescribed from is to be submitted to the Charity Commissioner. As per the Act (Section 19) an enquiry will be instituted. After the completion of an enquiry the Assistant Charity

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Commissioner / Deputy Charity Commissioner will give the decision along with the congruent reasons as per the guidelines in the Section 20. Subsequent upon the compliance the Registration Certificate of registration is issued and all the details are incorporated in the prescribed format in a register. (Section 17 Annexure I). There are 28 columns in this register. Thus the concise complete and comprehensive information of a Trust is available at a glance.

Once the registration of a Trust materializes it is obligatory on the part of Trustees; to take care of the Trust and its estate as if it belongs to them. The Trustees are required to apply, obtain and preserve a copy of Registration Certificate. This document is not only essential but indispensable also in case any addendum, modification, alteration, deletion is required to be enforced, or to take loan, or to sell the property.

2. **Change Report** - Subsequent upon the registration of the Trust innumerable changes take place e.g. appointment of new Trustee, change in address, purchase of land etc. Any change is required to inform within 90 days to the Assistant Charity Commissioner. This is standardized in Schedule III. This report comprises of a) details of change b) reasons attributing to change c) remarks and supplementary relevant correspondence.
As per the provision in section 22 the application for proposed changes must be pasted with a revenue / registration stamp of Rupee 1/- and it has to be endorsed as per the oath Act. Whenever an application for any charges is made; supplementary evidence either in written form or in verbal from must be produced.

In case there are in changes in any of the 28 columns of Trust Registration Register (Supplement 1); the same is required to bring it to the notice of Assistant Charity Commissioner along with relevant and corresponding papers. Assistant Charity Commissioner verifies, put the appropriate remark, mention the reason and give the decision. In case the changes made are opined as in congruent; the disapproval along with relevant reason is given.

To plead his say; the applicant can take the assistance of the Advocate. And according to the decision in supplement-I, necessary changes are incorporated. In case the Trustees are not agreeable to the decision of the Assistant Charity Commissioner an appeal can be instituted to Additional Charity Commissioner. However such an appeal can be made within 60 days from the date of verdict.

In case changes are made and the same are not informed to the Asstt. Charity Commissioner then as per the provisions in section 66 it is a criminal offence. The court of Law can fine up to Rs.1,000/- for such deviation.
3. **Budget** - Each and every trust will have to submit annual budget to the Asstt. Charity Commissioner as mentioned in section 31A. However if a Trust is having an annual income not exceeding Rs.5,000/- Then such trust need not submit their budget. In order to fulfill the objectives of a Trust; the Asstt. Charity Commissioner has made this provision. In case for any sub-Section if no provision is made or excess provision is made then the Asstt. Charity Commissioner can provide the concrete guidelines or give instructions. It is only for the purpose of verification that the expenditure correspondence and commensurate with the objective of Trust.

As per Section 16A, Schedule VII -A, the financial year of every Trust is commencing from 1st April and is up to 31st March. The budget in required to be submitted one month prior to the ensuing financial year.

4. **Audit and Audit Inspection** – Maintaining proper account is the major responsibility of every Trustee. Such account should be examined by an auditor and then to be submitted to the Asstt. Charity Commissioner. For this purpose specific rules & regulations are made.

i) The Trust whose annual income is less than Rs.500/- have been exempted from submitting the Income-Expenditure Statements. However, it is obligatory on the part of Trustees to submit an oath certificate to Assistant Charity Commissioner.
ii) The Trust whose annual income is ranging from Rs.500/- to Rs.5000/- are exempted from getting their Income-Expenditure Statements duly audited. However, such Trust has to submit the Income-Expenditure Statements, in the prescribed formats as per the provision in Schedule IX-A and IX-B.

iii) The Trust whose annual income ranges from Rs.5001/- to Rs.15000/- have to arrange for getting pre-audited their Income-Expenditure Statements from the authorized auditor or from auditor of government machinery.

iv) The Trust whose income is more than Rs.15000/- must get their statement audited from the authorized government auditor.

The Trust which is covered in the circumference of Clause (3) and (4) has to submit their Income-Expenditure Statements as per Schedule VIII & IX. Such pre-audited statements should be submitted within six months to the Assistant Charity Commissioner along with relevant record in original.

5. The expenditure incurred on account of administration is partially compensated by Trusts - The Public Trusts whose annual income is Rs.25,000/- are exempted from paying compensation as mentioned in Section 58. However, the Trusts, whose annual income is exceeding Rs.25,000/- are required to pay 2% of their gross income. Such an amount is
calculated for the twelve months proceeding to 31st March. Schedule IX-C specifies the methodology of calculating the compensation.

6. **Investment of Trusts** – As per schedule 35 the amount which is in excess and there are no plans to spend in the nearest future should invest such amount, as per RBI Act 1934, in Scheduled Bank, nominated Co-operative Banks, Post Offices or Public Debentures.

For any amount to be invested outside the circumference of Section 35 (1), needs a prior permission of the Assistant Charity Commissioner and for that purpose the prescribed application is to be used.

If any construction is to be made not for Trusts use but for accrual of income then it is necessary to take the prior consent from the Additional Charity Commissioner. How the funds are generated, what is the contribution from the funds of the Trust, the schedule of completion, the guestmation of probable income which may accrue and whether such construction is beneficial to the Trust are examined before granting the permission.

7. **Property** – The Trustees are empowered as per Section 36 to sell, exchange, transfer, hypothecate, gift or lent the property exclusively for the benefit of the Trust. In case from the property of the Trust the Trust is not receiving any income or if the income accrued is considerably less than the taxes to be paid to the Municipal Corporation or if the entire property is in
the possession of the tenants; the Trustees can make the resolution for sale / transfer of property. However, before such a transaction takes place; prior permission of Additional Charity Commissioner or Charity Commissioner is essential.

While executing such a transaction the Trust must be benefited, it should lead to square development of the Trust. In case from the so called transaction if the Trust is put to the loss or there is no necessity in making such a transaction then the Additional Charity Commissioner / Charity Commissioner are fully empowered to disapprove such a proposal. In case any transaction is made without the prior permission of the Charity Commissioner then such transaction is treated as baseless, void and illegal.

When an application is submitted to the Charity Commissioner, the concerned authority scrutinizes the same minutely and carefully. If the transaction is to materialize prior to that, then an advertisement is to be issued in local news papers, quotations are invited. The application made to Charity Commissioner is to be supplemented with documents such as Trust management, valuation certificate from Tahsildar / Talathi. At other locations certificate from valuer, proposal for Trust property sale, copy of public notice from news paper, received quotations, copy of supplement-I, 7/12 certificate, extract of property card, preceding years audit report,
compensation tax receipt, declaration and oath certificate indicating the necessary of sale of property etc. are required to submitted to the Charity Commissioner. Revenue stamp of Rs.10/- is to be pasted to such an application. This application is required to be signed by every Trustee. Charity Commissioner gives an opportunity to plead and advocate the say to the Trustees. If the same is found appropriate and congruent necessary permission is granted. In case the Charity Commissioner denies the permission a petition can be instituted against the same verdict in the High Court.

8. Loan – The Trustees have to seek an admission to take the loan for the Trust, as stipulated in Section 36A (3) from the Charity Commissioner. An application to that effect should accompany the policy of the Trust, reasons for taking loan, resolution of Trustees, extract of Supplement-I, property card, extract of 7/12, bankers letter regarding loan sanction, remittance of loan procedure, audit report of past three years specifying which property is to be hypothecated. This application is to be pasted with Rs.10/- revenue stamp. The Trust can take the loan even from its Trustees. However, the Trustees should obtain the permission from the Charity Commissioner. Trustees are not supposed to take interest charges. However, if the loan is taken from others except Trustees then interest charges not exceeding the
bank rate is to be given with the prior approval of the Charity Commissioner.

2.7.2 **Model Constitution for Public Charitable Trust**

It would be obligatory for every Public Trust to adopt constitution as suggested by the Maharashtra State Law Commission.

Model Constitution Prescribes -

a) Board of Trustees – minimum 5 - maximum 11 members.

b) Settlers may nominate maximum 40% of the Trustees.

c) The term of the board – 5 years.

d) Only two term on the same Trust.

e) No Trustee shall work for more than 3 Trusts at a time.

f) Election shall be as per rules.

2.7.3 **Duties of Trustees**

1. The registration of the Trust is to be made as per Section 18.

2. Any changes on account of modification, alteration, addition, deletion in supplement-I are to be forwarded to the concerned authority as per Section 22 within 90 days.

3. As per the provisions in Section 31(A) supplemented by rule 16, if the Charitable Trust is having an income more than Rs.5000/- and for other

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Trusts it is more than Rs.10000/- then before the commencement of succeeding financial year, one month before, the budget and budgetary provision is to be submitted to the Charity Commissioner in Supplement 7(A).

4. As per Section 32 & 33 Trustees should maintain the books of accounts and ensure its periodic auditing.

5. The amount exceeding over and above the provisions as per Section 35 can be invested subject to the prior permission of Charity Commissioner or Assistant Charity Commissioner.

6. In case there are any proposals for the sale, transfer, exchange, modernization, hypothecation, gift, renting of the estate belonging to the Trust; then as per the stipulation in Section 36 it is mandatory to take the prior permission of Charity Commissioner / Additional Charity Commissioner.

7. The provision in Section 36A (3) specifies that in case the Trust desires to take the loan, get the deposits or any such transactions then the stipulation in Section 36A (3) are to be followed scrupulously.

8. Any advance partial payment if required to be remitted; same should be done at the quickest possible.
9. To take the insurance policy for the safety and security of the property belonging to the Trust.

10. After every ten years ascertain the value of gold, silver, ornaments and other in valuables from the expert and incorporate the details thereof in prescribed format in the specified register.

11. As stipulated in Section 36B and Rule 24, supplement No. 10AA register should be maintained for moveable and the immovable properties.

12. All the relevant record of the Trust should be maintained neatly.

13. The responsibility of the management of the Trust is joint and several responsibilities on each and every individual Trustee individually and jointly.

2.7.4 **Indispensable Information for Trustees:**

1. As a general rule the Trustees are not supposed to take the honorarium of the work that is being performed by them.

2. Trustees are not supposed to combine or compose their property and income with the property and income of the Trust. In case it is found that such a wrong action is taken; Charity Commissioner can institute an enquiry and the loss incurred by the Trust can be recovered as per the stipulation in Section 39-40.

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3. In case the Trusts working capital is adversely affected; the concerned can be sued as per the provisions in Section 37, 39, 40 and 41.

4. In case there is a complaint about the mismanagement of the working of the Trustees; Charity Commissioner can institute an enquiry through the inspector of his office as per the provisions in Section 37 or 41B.

5. In order to ensure effective management of the Trust or in case the property of the Trust is put to the loss then as per the provisions in Section 41(A) the instructions are imparted to the Trustees.

6. The Trustees are entitled to obtain the relevant papers of the Trust by applying to that effect. The application should be pasted with 20 Paise Court Fee Stamp and by payment of necessary fees.

7. Trustees, during enquiry proceedings if had submitted the original documents, such relevant papers can be obtained after the lapse of re-appeal time period by an application affixed with a Court Fee Stamp of Rs.1/-.

8. An office record examination can be instituted in case the applicant pays Rs.1/- as inspection charges by an application pasted with a Court of Rs.1/-.

9. In case the stipulations mentioned at Section 66, 67 and 83 are not followed scrupulously then the culprit is liable for a fine upto Rs.1000/- and
such an incumbent is thereafter is declared as unsuitable / unfit for that position.

2.7.5 Other Important Information about the Trust and Trustees :\(^{11}\)

1. As per the provisions in Section 41(D) one can apply to the Charity Commissioner / Additional Charity Commissioner to remove a Trustee from the position he is adorning.

2. In case no Trustee is available to look after the day to day activities of the Trust, then a new Trustee can be employed in pursuant of Section 47 by applying to the Charity Commissioner / Additional Charity Commissioner.

3. Two Trustees or those having an ‘interest’ in the Trust can institute a writ petition in the Court of Law as per the provisions in Section 50 provided the Charity Commissioner / Assistant Charity Commissioner consent. In case the permission is not granted the one can apply to Maharashtra Revenue Tribunal as per Section 51 (2) coupled with Section 71 within 60 days from the date of verdict.

4. For any disputable verdict as given by Dy. Charity Commissioner / Charity Commissioner and subsequent not consented an appeal can be made within 60 days from the date of decision of the court; within 60 days.

\(^{11}\) Study Material on "Workshop on Guidance to Public Charitable Trusts" organized by Sakal Papers Trust, 21\(^{st}\) June 1998.
5. The appeal against the decision of Charity Commissioner / Additional Charity Commissioner can be instituted in the District Court and in pursuance of Section 36 and 41 (A) writ petition ca be instituted in the High Court.

6. As per the provisions in Section 50 (A) (1) and (2) the Trustees of the a Trust are empowered to make any changes, amendments, modifications, additions, alterations, deletions in the schemes as well as amalgamation of two or more Trusts or plans enforcement, exclusively for the purpose of ensuring smooth, fair and appropriate management of the Trust.

7. Section 47 (C) specifies the procedure for authorization of the persons who are not in the ambit of the Trust’s authorized persons to collect any contribution for any cultural, community welfare activities undertaken / to be undertaken.

2.7.6 Collection of Contribution for the Ritual and/or Community Welfare Activities :\textsuperscript{12}

Section 41 (C) specifies the stipulations indicating the empowerment to a person (whose name is not registered as a Public Trust under the Act) for the collection of contribution in cash, subscription, donations or in the form of other property, provided it is crystal clearly brought to the notice of Charity

\textsuperscript{12} Study Material on “Workshop on Guidance to Public Charitable Trusts” organized by Sakal Papers Trust, 21\textsuperscript{st} June 1998.
Commissioner, the purpose of specific contention. The standardized application forms for this purpose are made available in the office of the Charity Commissioner. On receipt of such duly filled in application forms the same are strictly scrutinized by Assistant Charity Commissioner followed by an enquiry if the same are found in tune with the requirement, the permission is granted for a short period to collect the contribution on stipulated terms and conditions.

Once the stipulated time period of collection of any amount is over then the concern persons should submit the appropriate and necessary accounts of the collected amount to the Assistant Charity Commissioner. The nominated and authorized incumbent can furnish such statement of accounts of collected amount up to Rs.2000/- directly by himself only, in case the amount exceeds Rs.2000/- then the same ought to be pre-scrutinized / inspected from an Authorized Auditor or Government Authorized Accountant and only thereafter such statements of accounts can be submitted to the Assistant Charity Commissioner. In case these stipulations are not followed then such a person is liable for criminal proceedings. By and large, such permission is granted by the Assistant Charity Commissioner to the Trusts related to Ganeshotsava, Navratrotsava, Pilgrimage of Gods or Peer Utsav.
2.8 Public Charitable Trusts and Income Tax:

2.8.1 Meaning of the Charitable and Public Trusts as per Income Tax Act:

Bombay Charitable Trusts Act specifically defines Public and Charitable Trusts. However, such a definition is not incorporated in Income Tax. The Income Tax Act covers the meaning embraced to charitable purpose. Income Tax Act Section 2(15) encircled the acts for the upliftment of common man those are –

a) Help / aid to economically backward class and poverty reduction.

b) Educational Programmes.

c) Medical Aid.

d) Any other task for public upliftment of life and their growth.

An organization which is formed to fulfill the above mentioned objectives is called Public Charitable Trust under Income Tax Act. The above mentioned definition of Public welfare or their purpose is very vast, hence every Trust must critically think how their work is positively, practically and pragmatically assists the society and community by and large, and then only a new Trust be formed. It is indeed to advocate to the Income Tax

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13 Study Material on “Workshop on Guidance to Public Charitable Trusts” organized by Sakal Papers Trust, 21st June 1998
Department that the purpose, action, objectives of their Trust falls within the circumference of the definition as adumbrated in the Income Tax Act.

2.8.2 Registration of Trust and Income Tax Exemption to the Trust under Income Tax Act:

By and large most of Public Trusts are registered under Bombay Public Trusts Administration Rules or Trust Registration Rules or Company Act. Once the Trust is registered and a certificate of registration to that effect is available, it infers that the Trust came into existence.

"Once this registration procedure is completed there is no need for registration" this concept is totally irrelevant. As mentioned above; every trust has to get registered as per the provisions in Income Tax Public Trusts are exempted from paying Income Tax provided the stipulations seeking the exemption are fully and totally complied with, the first and the foremost provision is registration as per Income Tax has to be ensured. As per the provision in the act the registration is mandatory. Once the registration certificate is issued; then the meaning inferred is that the existence of the organization is materialized. There is a misconception that once this registration procedure is completed; there is no necessity to register elsewhere. This is incorrect. As specified earlier; each and every organization must ensure that the organization is registered, over and above
the registration elsewhere, with Income Tax authorities. Once an organization comes into existence; it is exempted from paying the Income Tax- this is half truth. For getting the exemption from Income Tax compliance of some of the stipulation is indispensable. The main and major stipulation in getting the exemption from paying Income Tax is the applying firm must be registered with Income Tax Department.

The procedure laid down is adumbrated below:

1. Application should be made in duly filled in form 10 A.
2. This application is to be submitted to District I.T. commissioner.
3. This application is to be made within a year.
4. Form 10 A should be accompanied with document duly signed by all trustees as per provision in condition 13 (1) (c).

The procedure for registration under Income Tax Act is as follows:

1. As per the provisions in Income Tax Rules an application duly filled in form number 10 (A) is to be furnished.
2. This application is to be submitted to District I.T. commissioner.
3. This application is required to be within a period of one year from the date of existence of such an organization.
4. In case of failure to submit the application in the prescribed period under such circumstances the year in which the application is made will be
considered for the exemption of Income Tax. However the commissioner of Income Tax can exempt the delay and award the exemption with retrospective effect; provided the reasons attributing to the situation are quite congruent. However the trust must bear in mind that one years time period is sufficient and therefore timely action is definitely a good action.

5. The duly filled in form 10 (A) must be accompanied with the following documents.
   a) As per section (13) (1) (C) each and every Trustee has to furnish a duly signed declaration.
   b) Certificate of the registration of the Trust registered under which Act (viz. Bombay Public Charitable Trust Act or Society Registration Act etc.).
   c) Copy of the Memorandum of Association and copy of Rules & Regulations duly certified by Joint Charity Commissioner.

Above documents should be submitted to the Office of Income Tax Commissioner. These documents have been scrutinized by the Income Tax Commissioner under Section 12 (AA) of the Income Tax Act.

The Income Tax Commissioner before given the permission for the formation of Trust carefully looks after that the Trust should be mainly formed for the Public Welfare. According the I.T. Act Public Welfare
includes “Education, Medical Service, Poverty Removal, Public Utility Work and Motive of Public Welfare”. After the confirmation about the work of Trust which is formed for the Public Welfare the I.T. Commissioner given the permission to form the Trust this is given within six months from the date of application. After receiving the certificate the Public Trust is getting the status of Association of Persons under I.T. Act Section 2(31). Without the registration the Trust will not get the tax exemption under I.T. Act. Thus for getting the tax exemption the Trust has to fulfill the following conditions.

A. Every Trust should submit the return of income tax under I.T. Act Section 139(A) before 31st October to I.T. office.

B. After the evaluation of the income, if it is exceed more than 50000, the Trust has to be attached Chartered Accountant Certificate before submission of income tax return.

C. If Trust is devoted for the welfare of certain religion, caste or personal benefit then the Trust will not get the tax exemption under the Act.

D. If the income or some part of the income is spent directly or indirectly by the Founder Members, Trustees or the Donors for their own benefit then tax exemption under the Act will not given to the Trust.

E. The I.T. Act forms certain rules for the investment of funds of the Trust. If it is not fulfill by the Trust, the Trust will not get the tax
exemption under the Act. For getting the tax exemption the investment of the Trust funds should be made in i) National Saving Certificate, ii) Post Office Saving Certificate, iii) Indira Vikas and Kisan Vikas Certificate, iv) Deposits in Nationalized as well as scheduled bank, v) Debentures of State as well as Central Government, vi) Units of the Unit Trust of India, vii) Immoveable Property, viii) Deposits in IDBI Bank, ix) Deposits in the authorized companies who given the housing loans, x) Deposits in Public Sector Companies etc.

2.8.3 **Totally Tax Exempted Organizations**:

The agricultural income is totally tax exempted. So any organization has agricultural income shall not be needed to pay income tax.

Except the above category, following organizations has exempted from income tax as per I. T. Act.

1. Research Institutes - The institutes which sought the permission by the Central Government under I. T. Act can get the exemption of paying the income tax under the Act. But the institute has to be spent the funds for research purpose only or invest the funds in authorized type of investments only.
2. Educational Institutes - The institutes which is totally devoted for education field or promoting only education is totally exempted from income tax.

3. Medical Institutes - The institutes which is totally devoted for charitable hospitals, free medical services, running sanitarium without any profit making motto is exempted from income tax under the Act.

4. Sports Institutes - The institutes which are devoted for the development and spreading awareness in sports like cricket, football, tennis or any other authorized sports, can get the exemption from income tax under the Act.

5. Other Registered Institutes – The Central Government can give the tax exemption to any institutions after scrutinizing its motive, working and status at state as well as national levels. Such institutes have to follow all rules and regulations strictly regarding Source of income, investments of balance funds.

2.9 Management of Charitable Trusts :

2.9.1 Management: The work done to achieve decided objectives or goals is known as management. Any time bound program or any institutional continuous work cannot be completed without effective management.
In modern management science, "to achieve the desired goals, a proper balance between resources. Direction, co-ordination and control together form management.

In personal field or private sector production or value added services is important whereas in the service sector (Charitable Trusts), the effect of service can be seen through reformed human beings with their refined behavior.

Voluntary organizations must not only have good ideas and objectives but must have professional management skills to put those ideas in practice. Here professionalism is understood as service and quality in its results.

2.9.2 Important aspects in Trusts Management:

1. To decide scope - The main work of management is to decide institutional scope. The following five principles of action can be instrumented in deciding the working of a Trust. Here "We" stands for Trustees.

We are here for this

We will do this by a certain way

We will do within a time frame

Who will be responsible for this?

This is our work responsibility.

2. Planning - (Plan the Work and Work out the Plan)
Planning is soul of successful management. This includes two aspects of short term (Near future plan) and long term planning. When the planning is decided thoughtfully and deeply then it results in easy and effective implementation of that work. Many things have to be planned.

a) Physical Resources - office, furniture, land, vehicles, computers etc.

b) Human Resources - skilled labours, administrative staff, other volunteers, management council members etc.

Development phases and the essential resources on each phase also to be well managed at the time of planning.

3. Training - The training programs should be planned as per the working needs of the following persons: Board of Trustees working in the Trust-Committee, Project Committee Members, Administrative Staff and Technical Skilled Personnel.

The power of institution is totally dependent on the human resources power working at the institution. This power can be enhanced by giving effective training to the personnel / volunteers for their development and this will lead to the institutional development.

4. Monitoring and Control -

a) Meetings – The important work of management is to Plan meetings properly, prepare thoughtfully the Agenda for that, conduct a meeting,
take a survey of work, direct future plans for work properly by giving the guidance.

b) Documentation -

i) Some documents are essential for compliance issues of registered Trust i.e. Registration Certificate, Certificates required under Income Tax Act (80G, 35AC, FCRA etc.).

ii) Build the image of the Trust through the Brochures of Trust, Photographs of the various programmes and projects that were conducted.

iii) If Governmental policies are implemented the essential documents like (organization profile, project profile, audit statements etc.) have to be sent.

iv) The Mid-term and Annual Reports are to be published for the information of the society on whose support the Trust is running.

5. Marketing of Services - While providing the services the devoted commitment is important so also the volunteers own heart-felt feelings are important. If the service is provided by the one’s own devotion then it would bring about effective results. The volunteer must know why the project is running, for whom and for what? Because through this approach the seeds of self-reliance are sown.
6. Understanding the source of Unity - Feelings of being a team is the important work and responsibility of the management. The development of this team spirit leads to the social development and makes the Trust people oriented.

2.9.3 Contribution of Ancient India in Management Sector:

- Producing concrete results and producing effective performers is an important work of the management.

- Every project is important but with that the management of others and self management is also important.

- Also to concentrate on the creation of unanimity on objects and resources.

- The important thing is to try to improve volunteers’ empowerment and enhance their inspiration and high moral fibre rather than praise.

- To develop the feelings of ‘we’ rather than ‘I’.

This great management mantra had made India’s identity as a prosperous nation of the world.

2.9.4 Vision: Board of Trustees and management’s has to be an essential work that should identify future perspectives and prepares a blue print for
that. To achieve these visionary targets the feelings of anonymity of team spirit plays a deciding role.

Various organizations from various parts of society have created landmarks in a variety of fields, such as education, health, social and religious activity based on self reliance. These are some important service sectors. Development of an independent or self reliant society with feelings of unanimity amongst these kinds of organizations plays a key role in building refined social atmosphere. For this, organizational life should include sacrifices, devotion and professional skills.

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