Assessment of Charitable Trust

I. Meaning
II. Conditions
III. Registration
IV. Computation

I Meaning :- A charitable Trust is a trust created for "Charitable purpose" .As per section 2(15) ,charitable purpose means REMPO

R- Relief for poor

E- Education

M- Medical Relief

P- Preservation of Environment & preservation of monuments ,Objects & place of Historical Artistic importance

O- Any other object of general utility

REMP ↕

Treated as charitable trust even

If carried on business (of any size)

O ↕

Treated as charitable Trust

if does not carry on business

OR if it carries on business whose Gross Receipts is up to 25 lakhs (small size)

*** Business Income is taxable in both cases

II conditions :- Income of a Charitable /Religious Trust is exempt u/s 11& 12 ,if the following conditions are Satisfied :-

1. The trust should be registered with Income Tax Authority
2. The accounts of the Trust should be audited if the Total Income of the trust exceeds the basic exemption (before exemption u/s 11)
3. At least 85% of the Total Income of Trust shall be applied for Charitable/Religious purposes
4. The trust should be wholly for Charitable purpose

III Registration :-

1) For the purpose of registration ,the trust shall make an application to CIT
2) After receipt of application ,the CIT may call for any records & documents (in order to satisfy whether the trust is genuine or not)
3) If the CIT is satisfied ,then he shall pass an order registering the trust

   If the CIT is not satisfied then he shall pass an order refusing the registration (opportunity of being should be given) .Such order should be passed within 6 months from the end of the month in which application is received by CIT.

Notes :-

1) If the CIT fails to pass such order (within 6 months) than the Trust is deemed to be registered
2) After registration ,if CIT discovers that the activities of the Trust are not genuine that he can cancel the registration (opportunity of being heard should be given)

   ***Application once rejected Trust can reapply but application after the registration cannot reapply

IV Computation

Total Income (Income other than business Income) = Income from property held under trust & Donations received

Total Income

15% 85%

Always exempt

Applied Not applied

Exempt

Because Not received → Exempt

other than reason → Exempt

because accumulated → Exempt

not applied → Taxable

Deemed Application (Note 2)

Accumulation (Note 3)

Note 1:- Application of Income

At least 85% of the total income of trust should be “applied” for charitable /religious purpose .The term includes :-

- Revenue expenditure

- Capital expenditure

- repayment of loan taken for Charitable purposes

- Donations to other charitable /Religious trust

Note 2 Deemed Application :-

a) If the income of the trust cannot be applied either because it is not received or due to some other genuine reason than such income is deemed to be applied (and it can be exempt).provided the trust intimated the reason (in writing) to the Assessing Officer (before the due date of filling return)
b) If the income of Trust is not applied because it is not received ,than such income should be applied in the year of receipt or the year following the year of receipt .Otherwise ,the unapplied income shall be taxable in the year following the “year of receipt”
c) If the income of the Trust is not applied due to some other genuine reason ,than such income should be applied in the next year otherwise ,the unapplied income shall be taxable in the next year

Note 3 Accumulation of Income:-

a) If the trust has not applied the income during the year because it intends to accumulate it for future charitable /religious purpose then such accumulated income is exempt if the following conditions are satisfied :-

i) The trust should make an application in form 10 .The application should state the "purpose"& the "period" for which income is accumulated (maximum 5 years can be specified)

ii) The accumulated income should be invested in securities specified u/s 11(5)

b) If the accumulated income is misutilized then it will be taxable in the year of misutilisation .If the accumulated income is not utilized within the specified period or the year following the specified period, than the unused amount will be taxable in the year following the specified period

c) If due to unavoidable reason trust intends to change the specified purposes then it shall make an application to AO. If the AO is satisfied with the reason & if ther new purpose is in conformity with the objects of the trust ,then the AO may allow the change of purpose (purpose can change but period cannot change)

Note 4 Donation to other Trust :-

If a trust donates its current year income to other charitable /religious trust than such donation is treated income applied for charitable /religious purpose .However ,if current years income is to be applied in future (deemed application /Accumulation) than donation to other trust is allowed (it is treated as misutilization)

Note 5 Business Income of Trust

Business Income of Trust will be exempt if 2 conditions are satisfied :-

(i) The business should be necessary to achieve the objects of the trust (business is incidental to achieve the object of the trust)
(ii) Separate books should be maintained for business

If the above conditions are not satisfied the business income of trust is fully taxable

Note 6 Corpus Donations :- Corpus Donation means donation given with specific direction for specific purpose .Such donations are in the nature of liability hence ,exempt (not included in the statement)

Note 7 Anonymous Donations :- it means donations, in which the identify of the donor is not known i.e. Name, address ,etc of donor is not recorded

Anonymous Donations

Received by religious Trust	Received by charitable Trust
(partly /fully religious trust)	a) Exempt up to
Exempt	5% of total Donations

RS 100000, whichever is higher

b) Balance taxable @30% u/s

115BBC