

Taxation of  
NGO under  
Income Tax  
Act 2025  
updated by  
Finance Bill  
2026

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Comparison of relevant sections  
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Statement of Donation / corpus donation up to 31 may of next FY	Form 113	Form 10BD
Certificate of Donation / corpus donation received up to 31 may of next FY	Form 114	Form 10BE

# Taxation of NPO

Head of Income do not apply to NPO

Taxation **CIT vs Estate of V.L Ethiraj 1982 136**  
**ITR 12(MAD HC**

Trust Income Should be Computed on  
commercial principal outside the framework  
of Head of Income u/s 14 of ITA **1961 CBDT**  
**Circular No. 5 – P(LXX-6) dated 19/06/1968**

- Consolidated Different Scattered provisions at one place in Chapter XVII in the New ITA 2025 S(332 to 355). In others word self Contained code
- Shift from charity as exempt income to charity as Special regime
- Interpretation in earlier regime was liberal but now it may be construed Strictly
- Earlier procedural defaults or deviation have been overlooked on liberal construction but now the construction may be Stricter including denial of exemptions, Cancellation of registration etc.

## Charitable Purpose S-2(23)

- Relief of poor
- Education
- Yoga
- Medical relief
- preservation of environment (including watersheds, forests and wildlife)
- preservation of monuments or places or objects of artistic or historic interest – Museum, Article 49,51A duty to preserve Cultural heritage
- the advancement of any other object of general public utility

## Relief to Poor

'Relief of the poor' encompasses a wide range of objects for the welfare of the economically and socially disadvantaged or needy. It will, therefore, include within its ambit purposes such as relief to destitute, orphans or the handicapped, disadvantaged women or children, small and marginal farmers, indigent artisans or senior citizens in need of aid. Circular No. 11/2008

- Broadly Interpreted by Indian Courts
- Circular No. 11/2008

## Education

- The word education interpreted precisely in the case of sole trustee Lok **Shikshana Trust vs CIT 1975 101 ITR 234 SC**. Education is not to understood in its wide and extended sense but it connotes process of systematic instruction, schooling or training. In other words a structural and formal approach to imparting knowledge, skill, mind and character development **New Noble Educational Society vs CCIT 2022 143 Taxmann.com 276 SC** where court held that vocational, skill based, coaching activities not amounting to formal education and fall outside the scope of education.

# Yoga

- Finance Act 2015 recognized yoga as a distinct and independent charitable activity.
- Yoga encompass health, spiritual and cultural dimension

## Medical relief

- Activities related to providing medical aid and treatment including free treatment or treatment at concessional rate without dominant profit motive.
- Medical relief given to sick person irrespective of their financial capacity and therefore, act of charging fee for service by hospital does not preclude from claiming charitable activity. It is not a prerequisite that medical relief must be provided only to the poor or at free of cost for claiming charitable activity. It is independent and separate limb separate from relief to poor.
- SC in the case of Addl. CIT vs Thiagarajar charities 1997 92 Taxmann 152 held that object of the trust remain charitable even though undertake activities that generate income to achieve those charitable goals, real or predominant object should not be profit earning but primary purpose should be to provide medical relief and utilise the surplus profit for charitable activities.

## Preservation of Environment

Wildlife protection, Forest protection

Pollution control

Conserving natural resource

Protecting Air, Watershed, Land etc.

Treatment of Liquid and Solid industrial waste in STP/CETP/TDS F to curb air, water and soil pollution.

Maintenance and development of public park in densely build locality is also furthering the preservation of environment.

## Preservation of Monuments or places or objects of artistic or Historic interest

- Museum being established by the trust is covered under preservation of object of artistic or historic nature **Mehrangarh Museum trust vs ACIT 2014 48 Taxmann.com 129 Jodhpur Tribunal.**
- Monuments constructed in the memory of war heroes- **Yodha Samarak Samiti vs CIT 2012 24 Taxmann.com 126 ITAT Chandigarh.**
- Maintaining and preserving historic place, providing facilities for tourists/pilgrims and maintaining museum.
- Protection and preservation of monuments and cultural heritage is constitutional duties Article-49 and 51A.
- Collection, Exhibition and display of Historical and contemporary Indian arts, architecture, craft, handicraft etc. **Madras Craft Foundation vs Assistant DIT 2014 46 Taxmann.com 262.**

## Advancement of Any of the object of General Public utility

- Residuary clause/other categories
- In the New ITA 2025 Section 2(23) has no proviso similar to proviso in S.2(15) of ITA 1961 where the restriction of 20% of the Total receipts from any trade, commerce or business for a cess or fee other consideration. Otherwise become Non-Charitable.
- In ITA 2025 the activity still remains a charitable activity but if the receipt of GPU is more than 20% of the Total receipts then it will become commercial activity u/s 346 and require maintenance of separate books of accounts.

# Registration S.332

- **Approval based exemption** –Section 10(23AC) – Finance (No. 2) Act 2024 with effect from 01.10.2024 approval based exemption shifted to registration based exemption. No more such provision in ITA 2025.
- **Non- Approval based exemption/Automatic exemption** category in schedule VII of ITA 2025 read with Section 11 where receipts less than Rs. 5 Crore.
- **Registration based exemption** Section 332 of ITA 2025 (Earlier u/s 12A, 12AB of ITA 1961)
  - **Eligible applicant-** 332(1)- Public Trust , Societies, Section 8 Company, University established under Law, Government or Local Authority etc.
  - **Eligibility criteria- constituted/registered/incorporated in India.**
  - Properties held under **irrevocable trust for benefit of general public** for charitable or religious **purpose in India.** In other words **foreign entities are not eligible for registration.** However Indian NPO may apply fund outside India subject to restrictions u/s 338(a).
  - **Time limit for registration application, approval order and validity of registration** – Section 332(3). **Belated application** maybe filed but **condonation of delay application to PCIT/CIT(E)** and condonation allowed if there is reasonable cause to be examined on case-to-case basis- hardship preventing to apply within time bona-fide reason no negligence.
  - **Extended validity for small NPO** Section 332(5) – **10 Years validity**
  - **Inquiry after application before registration-** Section 332(7) – 1. **Object, 2. genuiness of activity, 3.compliance of law, 4. opportunity of hearing before rejection.**
  - Re-registration Of pre-2021 registered entity to regularise lapse registration for F.Y-2021-22 to 2025-26 where reasonable cause Section 332(9)

Rejection of  
Application and  
Cancellation of  
Registration –  
S.332(7)(b)

if he is not so satisfied, after affording a reasonable opportunity of being heard to the applicant shall,—

**First time application** (i) pass an order in writing **rejecting the application**, where the application was made in any of the cases specified in sub-section (3) (Table: Sl. No. 2 or 6); or

**Renewal/Regularisation of registration application** (ii) pass an order in writing **rejecting the application and also cancelling the registration** in any other case specified in sub-section (3) (Table: Sl. No. 3, 4, 5 or 7), and send a copy of the said order to the applicant and the Assessing Officer.

## Removal of defects [R-181(15)]

Where the applicant notices that the application in the Form No. 105 has been made by furnishing an erroneous section code or erroneous nature of activity as specified in the said Form,-

- (a) the applicant may furnish a request for correction before the Principal Commissioner or the Commissioner, at any time before passing of the order in Form No. 107; and
- (b) the Principal Commissioner or the Commissioner on receipt of such request, may allow such correction.

(10) On receipt of an application in Form No. 105, the Principal Commissioner or Commissioner, shall pass an order in writing in Form No. 107, for any of the following:

- a) issuing a 16-digit alphanumeric Unique Registration Number (URN) and granting registration or approval; or
- b) rejecting the application; or
- c) rejecting the application and also cancelling the registration or approval; or
- d) granting registration or approval under one section code as mentioned in Form and rejecting the application under the other section code mentioned in the application.

Remedy if cancellation of registration or rejection of application for registration.

(1) Appeal to the tribunal

(2) Re-apply within 1 month

- Appeal before appellate tribunal S.362 of the ITA 2025.
- If rejection under old law appeal before ITAT u/s 253 of the ITA 1961 .
- Time Limit- Two months from the end of the month in which such order passed.

## Re-apply [R-181(12), (13) & (14)]

(12) Where an order by rejecting the application or cancelling the registration or approval or both, the applicant may **re-apply** in Form No. 105 **within one month from the end of the month in which said order is passed**, if the following conditions are satisfied:

(a) such **rejection or cancellation is on account of-**

- (i) failure of the applicant to provide all or any of the documents or information as sought by the PCIT / CIT ( E ) under section 332(7); or
- (ii) not availing an opportunity of being heard; or
- (iii) ineligibility of the applicant on account of certain terms contained in the trust deed;

(b) the **applicant has provided the reasons** for

- (i) the failure to provide necessary information or documents; or
- (ii) not availing the opportunity to be heard; or
- (iii) ineligibility of the applicant on account of certain terms contained in the trust deed which has been modified on or before the date of re-application; and

(c) the applicant gives an **undertaking** that

- (i) **No appeal made against the earlier order or has withdrawn the appeal filed before any appellate authority** against such order; and
- (ii) **He shall not file any appeal before any appellate authority against the earlier order**

## Continued...

**Reapply within 1 month:** The applicant shall be allowed only one time opportunity to re-apply under sub-rule (12) [Rule 181(13)].

**Re application shall be treated as fresh application:** The re-application made under sub-rule (12), where the order was issued under section 332(7)(b) or 354(3)(b), shall be considered to be a fresh application and the time limit for passing order shall continue to be governed by the provisions of section 332(3) or 354(2), as the case may be, and the provisions of this rule shall apply accordingly [Rule 181(14)].

Switchover of regime  
not allowed – S.  
333/ITA 11(7)  
NPO registered under  
S. 332 cease to operate  
automatic category in  
Schedule-  
VII/Schedule-III

- (1) Nothing contained in [section 11](#), other than Schedule II (Table: Sl. No. 1), Schedule III (Table: Sl. Nos. 27 to 29 and 36) and Schedule VII (Table: Sl. Nos. 10 to 19 and 42 to 45), shall exclude any income of a registered non-profit organisation from its total income for that tax year.
- (2) The registration under [section 332](#) shall cease to operate from the date on which the registered non-profit organisation is notified as specified in Schedule III (Table: Sl. No. 27, 28, 29 or 36) or Schedule VII (Table: Sl. No. 42), or from the 1st day of April of the tax year for a registered non-profit organisation which claims exemption under Schedule VII (Table: Sl. No. 43, 44 or 45).
- (3) A person, whose registration ceases to operate under sub-section (2), may apply for registration under [section 332](#) subject to the condition that the notification granting exemption to such person under Schedule III (Table: Sl. No. 27, 28, 29 or 36) or Schedule VII (Table: Sl. No. 42) ceases to have effect from the date on which the said registration is granted and thereafter shall not be entitled to exemption under the respective serial numbers of the said Schedules.

## Cancellation of registration or approval [R-181(6) & (7)]

(7) Where the registration or approval granted or URN issued under sub-rule (4) is cancelled by the Principal Commissioner or Commissioner, such registration or approval or URN shall be considered to have never been granted or issued. In other word **retrospective effect of cancellation**

(6) The registration or approval granted in Form No. 106 and Unique Registration Number (URN), issued under subrule (4), may be cancelled by the Principal Commissioner or Commissioner, as referred to in sub-rule (1) [Table: Sl. No. 2] after providing an opportunity of being heard to the applicant, if, at any point of time it is noticed that Form No. 104, —

- (a) contains any false or incorrect information; and
- (b) does not comply with the requirements of sub-rule (3). Verification through Digital signature / EVC by authorised person.

## Surrender of registration or approval [R-181(8) & (9)]

(9) Where applicant surrenders the registration or approval as per the provisions of sub-rule (8), such registration or approval shall be deemed to have never been granted. In other word **retrospective effect of Surrender**

(8) The applicant may surrender the registration or approval granted under sub-rule (4) if the applicant-

- (a) has not claimed benefits, in its return of income for any tax year including the tax year in which such surrender of registration or approval is made, under, -
  - (i) Chapter XVII-B of the ITA-2025; or
  - (ii) section 10(23C)(iv) or (v) or (vi) or (via) of the Income-tax Act, 1961, as it existed prior to its repeal; or
  - (iii) section 11 or section 12 of the Income-tax Act, 1961, as it existed prior to its repeal; and
- (b) gives an undertaking that no claim of benefits shall be made in the return of income for any tax year under the provisions referred to in clause (a).

# Type of Income of NPO

## Regular Income- 335

## Specified Income- 337

## Residual Income- 355(j)

### Regular Income-

- Activity Income,
- Income from property, deposits or investments **wholly** for charitable or religious purpose.
- Income from property, deposits or investments **partly** for charitable or religious purpose.
- Voluntary Contribution Section 355(d)
- Permissible Business Income – Gain from permissible commercial activity (Section 344,345,346)
- Does not include Income applied outside India except with Board order where to promote international welfare in which India has interest and **corpus donation-** Section 338.
- Corpus Donation defined u/s 339.

## Corpus Donation Section 339

- Corpus donation means any donation made with a specific direction by the donor that it shall form part of the corpus of the registered non-profit organisation provided that such donation is invested or deposited in any of the modes permitted under section 350 maintained specifically for such corpus.

## Deemed Corpus Donation Section 340

- Where the property of a registered non-profit organisation includes any temple, mosque, gurudwara, church or other place notified under section 133(1)(b)(vi), any sum or sums received by such registered non-profit organisation as donation for the purpose of renovation or repair of such temple, mosque, gurudwara, church or other place, may, at its option, be deemed as forming part of the corpus under section 339, if it—
  - (a) maintains such corpus as separately identifiable;
  - (b) applies such corpus only for the purpose for which the donation was made;
  - (c) invests or deposits such corpus in any of the modes permitted under section 350; and
  - (d) does not apply such corpus for making donation to any person.

## Receipts vs Activity Income

Receipts may be capital receipts or revenue receipts or non-operational receipts or receipts from Capital Gain, grants may be restricted whereas activity income although not defined but generally it is from organization stated objects activity such as tuition fee from students, fee from patients etc after deducting legitimate expenditure incurred based on commercial principles.

## Taxable Regular Income- Sec. 336

- The taxable regular income of a registered non-profit organisation for any tax year shall be—
- (a) nil, where 85% or more of the regular income of such tax year has been applied as per provisions of section 341 or accumulated under section 342 for charitable or religious purposes, in such tax year as per the provisions of this Part; and
- (b) in any other case, 85% of the regular income for such tax year as reduced by its application for charitable or religious purposes as per provisions of section 341 or accumulation thereof under section 342 in such tax year as per the provisions of this Part.

## Specified Income – Section 337

Various types of Donations and Income taxable and year of taxability mentioned in S.337. In other words specified income is taxable and NPO have to pay tax on specified income listed in S.337.

S. No.	Specified Income	Tax Year
1	anonymous donation	Year in which anonymous donation is received.
2	Income applied for the benefit <b>to related person (see R-183)</b>	Year in which application is made
3	Income applied outside India in contravention of S. 338 (a)	Year in which application is made
4	investment or deposit made in contravention to the provisions of <u>section 350</u>	Tax year in which such investment or deposit is made.
5	Deemed corpus donation conditions violated Section 340	Tax Year in which violation made.
6	Accumulated income applied for other than charitable or religious purposes for which it is accumulated or set apart.	Year in which application is made.
7	Accumulated income ceases to be accumulated or set apart for application to such purposes as specified under <u>section 342(1)</u> .	Tax Year in which cease to be accumulated.
8	accumulated income, if it is not applied as per the provisions of <u>section 341(1)</u> to (4) for which it is accumulated or set apart within the period for which it was accumulated or set apart as specified in <u>section 342(1)</u> .	Last of the tax years for which income was so accumulated or set apart.
9	accumulated income, credited or paid to any other registered non-profit organisation.	Tax year in which it is so credited or paid.
10	applied to purposes other than charitable or religious purposes	Tax year in which it is so applied.

S. No.	Specified Income	Tax Year
11	Any income determined by the Assessing Officer under <a href="#">section 344</a> in excess of income shown in the books of account of such business undertaking.	Tax year to which such income relates.
12	Fair market value of any asset, where it is not held in forms or modes specified in paragraph 1(1) to (30) of Schedule XVI even after the expiry of one year from the end of the tax year in which such asset is acquired.	Tax year immediately following the expiry of limitation period mentioned in Column B.
13	Any deemed application under <a href="#">section 341(5)</a> not actually applied by the registered non-profit organization for its objects in India within the period specified in <a href="#">section 341(6)</a> .	Tax year specified in <a href="#">section 341(6)</a> by which such application is required to be made.

Benefits to Related Person shall be  
computed as per R-183

(1) For the purposes of section 337 [Table: Sl. No. 2], any income or part thereof, applied directly or indirectly for the benefit of any related person during the tax year, shall be computed in the manner as provided in sub-rule (2), in the following circumstances:

- (a) if any part of the income or property of the registered non-profit organisation is, or continues to be, lent to any related person for any period during the tax year without adequate security; or
- (b) if any part of the income or property of the registered non-profit organisation is, or continues to be, lent to any related person for any period during the tax year without adequate interest; or
- (c) if any land, building or other property of the registered non-profit organisation is, or continues to be, made available for the use of any related person, for any period during the tax year without charging adequate rent or other compensation; or
- (d) if any amount is paid by way of salary, allowance or otherwise during the tax year to any related person out of the resources of the registered non-profit organisation for services rendered by that person to such registered non-profit organisation and the amount so paid is in excess of what may be reasonably paid for such services; or
- (e) if any services or goods or both are made available by any registered non-profit organisation to any related person during the tax year without adequate consideration or other compensation; or
- (f) if any share, security or other property is purchased by or on behalf of the registered non-profit organisation from any related person during the tax year for consideration which is more than adequate; or

Benefits to Related Person shall be  
computed as per R-183

(g) if any share, security or other property is sold by or on behalf of the registered non-profit organisation to any related person during the tax year for consideration which is less than adequate; or

(h) if any income of the registered non-profit organisation, where the aggregate of the income exceeds ₹ 1000, is diverted during the tax year in favour of any related person; or

(i) if any property of the registered non-profit organisation, where value of the property exceeds ₹ 1000, is diverted during the tax year in favour of any related person; or

(j) if any funds of the registered non-profit organisation are, or continue to remain, invested for any period during the tax year (not being a period before the 1st day of January, 1971), in any concern in which any related person has a substantial interest.

(2)The income referred to in sub-rule (1) shall be the value of any benefit or facility granted or provided free of cost or at concessional rate to the related person.

(3)For the purposes of this rule, the expression —related person|| shall have the meaning assigned to it in section 355(h).

## Allowed application of Income for NPO – S. 341(1)

- (1) The following sums shall be allowed as application of income to a registered non-profit organisation:—
- (a) any sum, other than the sum referred to in clause (b), **applied by it for charitable or religious purpose for which it is registered AND such application in India** where such sum is paid during the tax year provided that the provisions of section 35(b)(i) and section 36(4), (5), (6), and (7) shall apply in respect of such sum; and
- (b) 85% of the **sum paid by way of donation ( other than corpus donation )** made to any other registered non-profit organisation.
- Note- Application shall include deemed application u/s 341(5) –refer S-341(8). In other words such short fall shall be treated as application of income so no tax even if not applied during tax year.

Allowed application of  
Income for NPO – S.  
341(2)

- Application of Corpus fund made after 31<sup>st</sup> March 2021.
- Restoration of Corpus funds
- when re-invested/deposited back in Section 350 mode within 5 years from withdrawal and maintained a separate identifiable corpus fund, no contravention of law occurs

Not treated as  
application- S. 341(3)  
and (4)

- Depreciation on assets where assets purchased claimed as application under ITA 1961 or ITA 2025 341(3)(a)
- No set-off of excess application- 341(3)(b)
- Corpus donation to other NPO 341(3)(b)
- Application from corpus donation , Loan or borrowings, accumulated income, specified income or deemed accumulation income. 341(4)

Not treated as  
application- S. 342(2)

The amount credited or paid by a registered non-profit organisation to any other registered non-profit organisation out of its income accumulated or set apart, shall not be treated as application of income.

Shortfall may  
be treated as  
deemed  
application- S.  
341(5)/(6)/(7)

- Where, in a tax year, the regular income applied by a registered non-profit organisation towards charitable or religious purposes in India, is less than 85% of regular income, the **shortfall**, or any part thereof, at the option of the registered non-profit organisation, may be treated as deemed application. Form 108 up to ITR filing due date u/r 184 similar to form-9A in old regime no specific project or purpose required in the form.
- deemed application under sub-section (5) shall be applied by the registered non-profit organisation for its objects in India,—
  - (a) during the tax year in which the **income is received( e.g Interest due from bank but not received)** or in the tax year immediately succeeding such tax year, where such shortfall is for the reason that income has not been received during that tax year;
  - (b) in the tax year immediately succeeding the tax year in which the income was derived (e.g rental income due but not received ) , where such shortfall is for any other reason.
- Application before due date of return S-341(7)

capital gain --  
Deemed  
application-  
where net  
sale  
consideration  
re-invested in  
capital assets  
S. 341(9)

Following income from capital gains shall be deemed as application of income—

(a) the capital gain from transfer of a capital asset, being property held under trust wholly for charitable or religious purposes, where the whole or any part of the **net consideration** is utilised for acquiring **another capital asset** to be so held,—

(i) if the whole of the net consideration is utilised in acquiring the new capital asset, the whole of such capital gain;

(ii) if only a part of the net consideration is utilised for acquiring the new capital asset, so much of such capital gain as is equal to the amount, if any, by which the amount so utilised exceeds the cost of the transferred asset;

## ACCUMULATI ON OF INCOME – S- 342 & (R-185)

(1) A registered NPO may accumulate or set apart any part of its regular income during any tax year by furnishing a **statement to the Assessing Officer in such form and manner, as may be prescribed (Form 109 up to return filing due date), on or before the due date for furnishing the return of income** for such tax year stating therein the purpose and period, **not exceeding five years**, for which the income is being accumulated or set apart.

(3) The period during which the income is not applied for the purpose for which it is so accumulated or set apart pursuant to an **order or injunction of any court, shall be excluded** from the said period of five years.

(4) The income accumulated or set apart shall be **invested or deposited in any of the modes permitted** under section 350, or applied for the purposes as stated in the prescribed form referred to in sub-section (1).

(5) The registered non-profit organisation may, for the **change of purpose for which income has been accumulated** or set apart, **make an application to the Assessing Officer**, in form 110 and manner, as may be prescribed under rule 186 & approval by AO in Form 111.

(6) The Assessing Officer may, on an application made under sub-section (5) and subject to sub-section (2), allow the registered non-profit organisation to apply its income for such other charitable or religious purposes in India which are in conformity with its objects.

(7) Where a **registered non-profit organisation is dissolved**, the **Assessing Officer may, on an application made by such registered non-profit organisation in such form and manner, as may be prescribed, allow application of such income to be made to any other registered non-profit organisation for the year in which it is dissolved.**

## **Deemed accumulated income. S-343**

- (1) The regular income, as reduced by the application of income as per the provisions of [section 341](#) and accumulated or set apart income under [section 342](#), to the extent of 15% of regular income, shall be considered as deemed accumulated income and where such deemed accumulated income is invested or deposited, it shall be invested or deposited in any of the modes permitted under [section 350](#).

## Meaning of Commercial Activity – S.355(e)

- “commercial activity” means any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity;

## Commercial activities by NPO

**Business undertaking held as property. S-344**

**FOR OTHER THAN GPU NPO, as per section 345 Conditions :**

**(a) such commercial activity is incidental to the attainment of the objectives of the registered non-profit organisation; and**

**(b) separate books of account are maintained for such activities.**

- Where the property held by a registered non-profit organisation includes a **business undertaking**, and where a claim is made that the income of any such undertaking is eligible for benefits under this Part, then the Assessing Officer shall have the power to determine the income of such business undertaking as per the provisions of this Act.

Restriction on  
commercial activities  
by GPU NPO S-346

(a) such commercial activity is undertaken in the course of actual carrying out of advancement of any object of the general public utility;

(b) the aggregate receipts from such commercial activity or activities do not exceed 20% of the total receipts of such registered non-profit organisation of the relevant tax year; and

(c) separate books of account are maintained by such registered non-profit organisation for such activities.

## Computation of gain from commercial activity (R-182)

For the purposes of section 335(e), gains of any commercial activity permissible under sections 344, 345 and 346, carried out by a registered non-profit organisation for a tax year, shall be computed in the following manner:

- (a) such commercial activity shall be treated as if it is entity separate from the registered non-profit organisation;
- (b) separate books of accounts are maintained for such activities; and
- (c) gains from such commercial activity during the tax year shall be computed as per the provisions of Part D of Chapter IV of the Act. Business or profession head S-26 to S-66.

Specified violations – 351  
cancellation of  
registration prospectively  
by order in writing –  
Principle of natural  
justice, copy to A.O,

- The following shall constitute specified violation by a registered non-profit organisation:—
- (a) where any income has been applied for other than its objects; or
- (b) it carries out any commercial activity in contravention of the provisions of section 345 ~~or 346~~; or
- (c) where it has applied any part of its total income for **private religious purposes**, which does not ensure for the benefit of the public; or
- (d) where a registered NPO, created or established after the commencement of this Act **for charitable purpose**, has **applied any part of its income for the benefit of any particular religious community or caste** other than the Scheduled Castes or the Scheduled Tribes or backward classes or women and children; or
- (e) where any **activity being carried out is not genuine** or is **not being carried out in accordance with all or any of the conditions subject to which it was registered**; or
- (f) the registered NPO has **not complied with the requirements of any other law** as referred under section 332(7)(a) and the order, direction or decree, holding that such non-compliance has occurred, has either not been disputed, or has attained finality; or
- (g) the **application for registration referred to in section 332(1) contains any false or incorrect information.**

## Effect of Specified Violations – S.351(2)

**Time Limit for passing order:** The order under sub-section (2)(ii), shall be passed before the expiry of six months, calculated from the end of the quarter in which the first notice is issued by the Principal Commissioner or Commissioner, calling for any document or information, or for making any inquiry, under clause (i) of the said sub-section.

- PCIT /CIT may call for documents or information or make necessary enquiry and thereafter may pass an order in writing, cancelling the registration of such registered non-profit organisation, after affording a reasonable opportunity of being heard, for such tax year and all subsequent tax years, if he is satisfied that one or more specified violations have taken place;
- forward a copy of the order passed under clause (ii) to the Assessing Officer and such registered non-profit organisation.

# Compliance

Books of Accounts- S.347

Audit of Accounts – S.348

Returns of Income - S.349

Permitted Mode of Investments – S.350 + read with schedule-XVI

## Books of Accounts- S.347

- Where the total income of a registered non-profit organisation, without giving effect to the provisions of this Part, exceeds the maximum amount which is not chargeable to income-tax in any tax year, such registered non-profit organisation shall be required to keep and maintain the books of account and other documents in such form and manner and at such place, as may be prescribed.
- Prescribed Rule 147 similar to Rule 17AA of the Old Rule .

# Books of Accounts- R.187

- Every registered NPO is required to keep & maintain books of accounts & other documents u/s 347 shall keep & maintain:
  - a) Books of accounts includes: cashbook, ledger, journal or copies of bills, etc.
  - b) Separate books of accounts of Business Undertaking
  - c) Books of accounts by GPU
  - d) Documents of all projects & institutions
  - e) Record of income from activity (Charitable or religious)
  - f) Specified income, Income from commercial activity, residual income
  - g) Records of application of income, deemed application of income, income accumulated or set apart.

# Continued...

- a) Money invested or deposited in mode as per S-350 read with schedule XVI, otherwise mode
- b) Application of income out of accumulated or set apart income or out of deemed application of income (not treated as application)
- c) Record of corpus donations (name, address, PAN/Aadhaar), application of corpus fund, details of payee & purpose of expense, mode of investment of corpus fund
- d) Records of deemed corpus donation received for renovation, repair of temple, mosque, gurudwara, church, etc., application of such donation, investments or deposit of such fund
- e) Records of loans & borrowings, application of such loans or borrowings, repayment of such loans or borrowings
- f) Records of properties, immovable properties, details such as cost of acquisition, registration, transfer, net consideration, investments of such net consideration, details of movable properties
- g) Records of related person, transaction with related person, any other documents

## Books of accounts other details

- a) Written or electronic or digital or print out form [187(2)]
- b) Books of accounts & records at registered office, at other places required management decision by resolution & intimation to AO within 7 days
- c) Retention period 6 years from relevant tax year, in the case of re-assessments till assessment become final

## Audit of Accounts- S.348:

- Where the total income of a registered non-profit organisation, without giving effect to the provisions of this Part, exceeds the maximum amount which is not chargeable to income-tax in any tax year, the accounts of such registered non-profit organisation for that tax year shall be audited by an accountant and the person in receipt of the income shall be required to furnish a report of an audit of such income by such date in the prescribed form, duly signed and verified by such accountant and setting forth such particulars, as may be prescribed.
- Prescribed Rule 188 Form-112 one month prior to the due date of furnishing the return of income under section 263(1)

Audit of  
Accounts- R.188:

- The report of the audit of the accounts, required to be furnished under section 348, shall be furnished in Form No. 112, one month prior to the due date of furnishing the return of income under section 263(1).

## Consequences of Non-Compliance – S. 353

- Failure to maintain books of accounts – S. 347.
- Failure to get accounts audited u/s S.348
- Failure to furnish return u/s S. 349
- Carrying our commercial activity in contravention of provision u/s S. 346 by GPU NPO .

- regular income for such tax year as reduced by the **expenditure** referred to in sub-section (3) shall be taxable regular income which shall be chargeable to tax as per the provisions of [section 334](#). In other words Net Income after reducing expenditure shall be taxable income.
- Irrespective of the provisions of [section 338](#), any specified income and residual income of the registered non-profit organisation, which is not included in sub-section (1) shall also be chargeable to tax under the provisions of [section 334](#).

Permissible Expenditure against Income  
while computing taxable regular income  
u/s S. 353(1)

- expenditure incurred in India (**other than capital expenditure**) for the objects of the registered non-profit organisation, subject to the fulfilment of the following conditions:-
  - (a) **expenditure shall be incurred in India;**
  - (b) **Expenditure for object of NPO:** expenditure shall be for the objects of the registered non-profit organisation;
  - (c) **No expenditure from corpus:** expenditure is not made from the corpus standing to the credit of the registered non-profit organisation as on the end of the tax year immediately preceding the tax year for which income is being computed;
  - (d) **expenditure is not out of any loan or borrowing;**
  - (e) **No double deduction :** the claim of depreciation is not in respect of an asset, acquisition of which has been claimed as application of income, in the same or any other tax year;
  - (f) **No donation to other NPO ;** expenditure is not in the form of any contribution or donation to any person ;
  - (g) **Cash payments within permissible limits :** expenditure is not on account of a payment or aggregate of payments made to a person in contravention to the provisions of section 36(4), (5), (6) and (7)-, and ;
  - (h) **TDS deducted and deposited:** payment is allowable under section 35(b)(i).

Permitted Mode of  
Investments -  
S.350 read with  
Schedule XVI:

- Government backed instruments
- Deposits with Bank and Financial Institutions
- Bonds, Shares, Debentures of PSU
- Bonds or Debt instrument of Public Financial Corporations and Housing/Infrastructure Companies
- Units of Regulated Funds such as UTI, Power Grid Infrastructure Investment Trust.
- Immovable Property
- Deposits which statutory authorities
- Special Carve out/ Grandfathered assets such as Voluntary Contributions received in kind maybe continued or assets forming part of corpus prior to 1 June 1973 maybe continued etc.

Effect of cancellation, modification in object, merger, dissolution of registered NPO – S. 352

Case	Comments	Specified date	Due date for payment
Registration, cancellation/ withdrawal	Appeal preferred against cancellation	Date of cancellation order	Date of appellate order confirming cancellation. In other words, liability deferred till disposal of appeal
Registration, cancellation/ withdrawal	No Appeal preferred against cancellation	Date of cancellation order	Expiry of period for filing appeal
Modification of object without re-registration	Require to file application for registration	Date of modification/ adoption of modification	End of Tax Year
Modification of object without re-registration	Appeal filed	Date of adoption/modific ation	Date of appellate order confirming rejection
Modification of object without re-registration	No Appeal filed	Date of adoption/modific ation	Expiry of period for filing appeal

Effect of cancellation, modification in object , merger, dissolution of registered NPO – S. 352

Case	Comments	Specified date	Due date for payment
Failure to apply for re-registration	Time period for re-registration in S.332.	Last date of application	End of Tax Year
Conversion into in-eligible form	Conversion of NPO into Profit entity etc.	Date of conversion	End of Tax Year
Merger with other Non-Registered NPO not having similar object and conditions of merger not fulfilled	Registered NPO may merge only with other registered NPO having same or similar object and fulfilling all the conditions of merger.	Date of merger	Date of merger
Dissolution without transfer of all assets of other registered NPO within 12 months of dissolution.	All assets to be transferred within 12 months to other registered NPO	Date of dissolution	Date on which period of 12 months expire

Tax on  
Accreted  
/Exit Tax –  
S.352

□ Every **specified person(registered NPO)** shall, in addition to the income-tax chargeable in respect of his total income, be liable to pay additional income-tax on accreted income at the maximum marginal rate .

□ The accreted income referred to in sub-section (1) shall be computed using the following formula:—

$$A = B - C$$

where,—

A = Accreted income;

B = **Aggregate fair market value of the total assets** of the specified person, as on the date specified, in column C of the Table in sub-section (4), computed in accordance with such method of valuation, as may be prescribed;

C = **Total liability** of such specified person, as on the date specified in column C of the said Table, computed in accordance with such method of valuation, as may be prescribed.

Approval to NPO for  
claiming deduction u/s  
133(1)(b)(ii) (old section  
80G) by the donor- S.354

- Registered NPO or person referred to in Schedule VII may make application for approval in prescribed form 104/105 to PCIT/CIT

## Conditions for approval – S. 354(1)

- (a) it is not expressed to be for the benefit of **any particular religious community** or caste;
- (b) **Cap of 5% on religious expenditure** : it is **established in India for a charitable purpose** and **does not incur any expenditure of an amount exceeding 5% of its total income during a tax year which is of a religious nature;**
- (c) **Restriction on transfer of assets** : the instrument under which it is constituted does not, or the rules governing it do not, contain any provision for the transfer at any time of the whole or any part of its assets for any purpose other than a charitable purpose;
- (d) **it maintains regular accounts of its receipts and expenditure;**
- (e) **Statement of Donations Form-113 under Rule 190**
- (f) **Correction of Donation statement Form-113 under Rule 190**
- (g) **Certificate to the donor Form-114 under Rule 190 :**

Time Limit for Application and Validity –  
S.354(2)

S.NO.	Case	Time limit for furnishing application	Time limit for passing the order	Validity of approval
A	B	C	D	E
1.	Where the activities of the applicant have not commenced.	At any time during the tax year from which approval is sought.	One month from the end of the month in which application is made.	Three tax years commencing from the tax year in which such application is made.
2.	Where the activities of the applicant have commenced.	At any time during the tax year from which approval is sought.	Six months from the end of the quarter in which application is made.	Five tax years commencing from the tax year in which such application is made.
3.	Where the applicant has provisional approval and activities have commenced.	Within six months of the commencement of activities.	Six months from the end of the quarter in which application is made.	Five tax years commencing from the tax year in which such application is made.
4.	Where the provisional approval of the applicant is due to expire and activities have not commenced.	At least six months prior to the expiry of the provisional approval.	Six months from the end of the quarter in which application is made.	Five tax years following the tax year in which such application is made.
5.	Where the period for approval of a registered non-profit organisation is due to expire.	At least six months prior to the expiry of the said approval.	Six months from the end of the quarter in which application is made.	Five tax years following the tax year in which such application is made.

## Inquiry for Approval – S.354(3)

Where an application has been made in any of the cases specified under sub-section (2) other than provisional approval the Principal Commissioner or Commissioner shall **call for such documents or information** or make such **inquiries** as he thinks necessary in order to satisfy himself about the genuineness of the activities, and compliance of such requirements of any other law in force, as are material for the purposes of achieving its objects, and—

- (a) if he is so satisfied about the **objects and the genuineness of the activities and compliance of such requirements of any other law in force**, he shall pass an order in writing approving it; or
- (b) if he is not so satisfied, after affording a reasonable opportunity of being heard,—
  - (i) shall pass an order in writing rejecting the application, where the application was made in any of the cases specified in sub-section (2) (Table: Sl. No. 2); and
  - (ii) in any other case, shall pass an order in writing rejecting the application and also cancelling the approval, and send a copy of the order to the applicant and the Assessing Officer.

- (1) The NGO must file statement of donation in Form 113 electronically through EVC or digital signature of authorised person up to 31<sup>st</sup> May of next FY.
- (2) Certificate to the doner of donation receipt in Form 114 up to 31<sup>st</sup> May of next FY.

**Thank You**

**CA PP SINGH**

**Ph.D in Law (P),LLM LLB, FCA, CS, GSTCC(ICAI), B.Sc. (H)**

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