INTER *face*

towards promoting accountability

Volume-VI, Issue-II

April - June 2006

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Special Focus:

Third Confluence Of FEAT

feat

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Forum for Ethics, Accountability and Transparency

Forum for Ethics, Accountability and Transparency (FEAT) is a network of Finance consultants engaged in the voluntary sector facilitated by FMSF. The purpose of this network is to use the expertise of the group more effectively to address the existing issues faced by the NGOs in the areas of Financial Management and Related Governance. The forum is a platform for mutual learning and for sensitization regarding the field realities of the voluntary sector. The Third Confluence of FEAT was held on 21st and 22nd February 2006 and its primary objective was to discuss issues relating to the strengthening of ethics, accountability and promoting good governance in the Development Sector.

This issue of **'INTER*face*'** specially focuses on the Third Confluence of FEAT and shares the discussion papers presented by the speakers during the Technical Sessions of the Confluence.

Between Us ....

The Three Strange Wishes

We are all familiar with the story of Alexander, the Greek King and his quest to conquer the world. Here is a very instructive incident involving his life.

Alexander, after conquering many kingdoms, was returning home. On the way, he fell ill and it took him to his death bed. With death staring him on his face, Alexander realized how his conquests, his great army, his sharp sword and all his wealth were of no consequence.

He now longed to reach home to see his mother`s face and bid her his last adieu. But, he had to accept the fact that his sinking health would not permit him to reach his distant homeland. So, the mighty conqueror lay prostrate and pale, helplessly waiting to breathe his last. He called his generals and said, "I will depart from this world soon. I have three wishes, please carry them out without fail." With tears flowing down their cheeks, the generals agreed to abide by their king`s last wishes.

"My first desire is that," said Alexander, "My physicians alone must carry my coffin." After a pause, he continued. "Secondly, I desire that when my coffin is being carried to the grave, the path leading to the graveyard be strewn with gold, silver and precious stones which I have collected in my treasury." The king felt exhausted after saying this. He took a minute`s rest and continued. "My third and last wish is that both my hands be kept dangling out of my coffin." The people who had gathered there wondered at the king`s strange wishes. But no one dare bring the question to their lips. Alexander`s favorite general kissed his hand and pressed them to his heart. "O king, we assure you that your wishes will all be fulfilled. But tell us why do you make such strange wishes?"

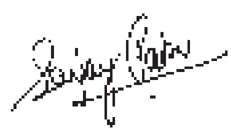
At this Alexander took a deep breath and said: "I would like the world to know of the three lessons I have just learnt. I want my physicians to carry my coffin because people should realize that no doctor can really cure any body. They are powerless and cannot save a person from the clutches of death. ***So let not people take life for granted.***

The second wish of strewing gold, silver and other riches on the way to the graveyard is to tell people that not even a fraction of gold will come with me.

I spent all my life earning riches but cannot take anything with me. ***Let people realize that it is a sheer waste of time to chase wealth.***

And about my third wish of having my hands dangling out of the coffin, ***I wish people to know that I came empty handed into this world and empty handed I go out of this world."***

With these words, the king closed his eyes. Soon he let death conquer him and breathed his last. How true are the lessons that Alexander learnt! Let us therefore cherish the gift of life, chase after things that have eternal value and keep in mind that our baggage for the final journey would be very light.



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Accountabilty, Transparency & Governance
- Role of Consultants

- Sanjay Patra, F.C.A.

> *"Modern Accounting is no longer a record of book keeping entries. It has developed into an instrument of control and a tool of management. Accountancy has not only to keep pace with the advancement in technical and scientific knowledge…but also has to be in a position to give answers with requisite speed."*
>
> *- Mr. S.P. Chopra, President of ICAI, 1957*

1. INTRODUCTION

Mr. S.P.Chopra, the then president of ICAI way back in 1957 talked about a change over of the face of accountancy profession. Many times accountancy and financial management are understood as mere book keeping processes. If we look at the voluntary sector to-day in India as well as in South Asia, it can be seen that all our accounting norms and financial regulations are general in nature and that we do not have any specialized accounting or financial reporting norms for the development sector. At the same time, our existing financial systems fail to account for various enduring aspects of development. This calls for the need for having or evolving systems and practices that ensure accountability, transparency and promote good governance, thereby leading to better service delivery of the voluntary organizations.

2. ACCOUNTABILITY & TRANSPARENCY

One of the key non-negotiables for the voluntary sector is accountability & transparency. This is primarily because voluntary organizations operate with donated funds. These funds are meant for the beneficiaries. This puts a lot of responsibility on the voluntary organizations towards its stewardship.

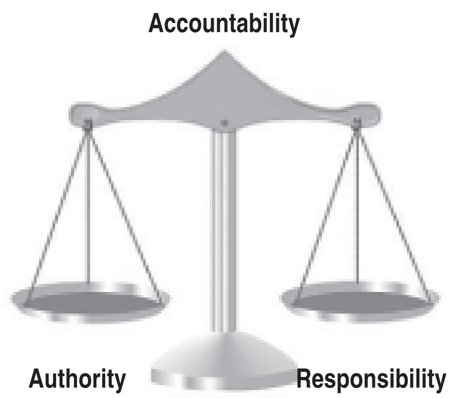
2.1 The **three key elements of accountability** as perAA 1000* are:

ACCOUNTABILITY

- Transparency → Transparency implies sharing of processes and information across stakeholders
- Responsiveness → Responsiveness refers to owning responsibility for acts, omissions and processes and infusing continuous improvement in the systems and processes.
- Compliance → Compliance concerns the duty to comply with agreed standard s of practice and policies along with the statutory requirements.

2.2 Accountability has two chief purposes:

- It monitors whether the authority and responsibility delegated to a person or a group of persons are in balance and if necessary makes a correction.
- It measures whether expectations of responsibility were achieved without ov erstepping the limitations of authority, i.e, it determines that goals have been achieved and standards kept within the available resources.



* Accountability 1000 (AA1000) is the work of - the Institute for Social and Ethical Accountability. ISEA. It is promoted as a standard for the measuring and reporting of ethical behaviour in business. It provides a framework that organisations can use t o understand and improve their ethical performance, and a means for others to judge the validity of claims to be ethical.

2.3 Roles of Accountability:

- **Monitoring the balance of authority and responsibility**

This is the first and most important role of the accountability process. At every organizational level, it is important to maintain a balance between authority and responsibility, i.e balance between what is invested in an individual or a group and what is expected in return.

- **Measuring compliance:**

Accountability measures the compliance by ensuring that all reporting requirements are met by the organization such that all the stakeholders get timely and satisfactory information regarding the organisation's progress and activities.

- **Measuring strategic results.**

Measuring strategic results refers to measuring the extent to which the organization is realizing its mission. It is a measure of productivity- the degree to which the needs of the target community are being met.

A system for ideal governance could include:

1. transparent and effective governing body where accountability at the helm is determined
2. efficient, competent and precise manpower.
3. consistent efforts towards capacity building and evaluation of human resources
4. ensuring absolute independence of auditors
5. stratified participation from the grass root.
6. evaluation in terms of the objectives achieved rather than amount of funds utilized.
7. development initiatives basically demand compassion and will; allowance should be made for factors which do not find a way in the books.
8. legal compliances keeping in view the hazards and protections embedded in the system
9. implementing systems which are essential though not legally mandatory.

3. ACCOUNTABILITY & GOVERNANCE

Accountability of NGOs is the cornerstone of good governance and a pre-requisite for an effective democratic participatory process. Good governance means the effective management of an NGO's resources in a manner that is open, transparent, accountable, equitable and responsive to the needs of the people. One of the key purposes of good governance is to ensure that an organization's assets and resources are managed and developed in a manner that will maximize delivery on its mission.

4. THE SEVEN DEADLY SINS OF ORGANIZATIONS

Les Stahlke and Jennifer Loughlin in their book, 'Governance Matters' have talked about the seven deadly sins of an organization in governance (edited)

4.1 Deadly Sin # 1
Weak Governance, Leadership and Management

Symptoms:

- The authority flow is not defined or clearly understood.
- Decisions are not documented clearly

- Little or no monitoring of performance or measuring of results

Results :

- Staff is frustrated at lack of clarity
- Quality and effectiveness of service delivery suffer
- Personal fulfillment of staff and volunteers is lacking
- Good people leave and aren't missed.

4.2 Deadly Sin # 2
Abusive Leadership and Management

Symptoms:

- Overconfidence
- Constant interference in the work of staff.
- Staff discouragement
- Broken relationships
- Manipulation
- Personal agendas are forced on the entire group

Results:

- Individual rights are violated
- People are abused, discouraged, unfulfilled
- Good people leave
- Effectiveness suffers
- Without accountability, abuse increases and becomes chronic
- Culture is damaged

4.3 Deadly Sin # 3
Vague Strategic Decision

Symptoms:

- The organization has no statement of values, vision or mission or they exist but are outdated, unknown and/or without ownership.
- Future is based on "chance event" instead of "careful planning".

Results:

- Strategic direction is assumed by the CEO instead of being led by the board.
- Confusion and/or disagreement of purpose and priorities lead to lack of focus and ineffective use of resources.

4.4 Deadly Sin # 4
Unclear Roles and Responsibilities

Symptoms:

- Authorities and responsibilities are not clear.
- Few or no current job description
- There is a reliance on precedent and tradition rather than present reality
- Assumptions differ

Results:

- There is a significant duplication of effort
- Some responsibilities are not covered
- Confusion leads to disagreement and strained or broken relationships
- Staff are frustrated and unfulfilled

4.5 Deadly Sin # 5
Unclear Expectations

Symptoms:

- Goals are not established for strategic outcomes or tactical outputs
- Goals are established by the source of authority but not negotiated with staff in proportion to available resources and potential.

- Expectations are assumed but not expressed.

  Results:
- Variation between expected and achieved outcome.
- Staff and volunteers have no way of knowing when they have succeeded
- Differing expectations lead to misunderstandings, a sense of failure and breakdown of relationships.

4.6 Deadly Sin #6 Square Pegs, Round Tables

Symptoms:
- No proper criteria for selection of staff.
- Inadequate training or orientation are provided
- Skills are not matched with needs of the position

Result:
- Service quality is limited by lack of availability of the competent staff
- Quality of work is affected.
- Staff and volunteers are unfulfilled and demoralized, wanting to make a positive contribution but without the "right skills".

4.7 Deadly Sin # 7 Forgiveness Confused with Accountability

Symptoms:
- Accountability mechanisms are poorly defined, not used or dont exist.
- Poor performance or behavior is tolerated, treated with understanding and forgiveness.
- Annual performance reviews are rare or non-existent – especially at the Board level.

Result:
- Successful staff and volunteers are not affirmed.
- Weak staff and volunteers are not supported or redirected.
- When forgiveness fails to produce change in unacceptable performance and behavior, judgment and unfair dismissal may follow with accountability and redirection never happening.

5. ROLE OF EXTERNAL CONSULTANTS

Since the voluntary organizations don't have enough resources to invest in institution building, many times it becomes difficult for them to access expertise on a full time basis. Therefore, they decide to take help of consultants or resource persons to enrich the organization from time to time. In that sense, the consultants play a very crucial role in developing competencies/capacities of the organization which in turn leads to better ethics, accountability and good governance.

Primarily, there are two types of consultancies:

- as evaluators / auditors / investigators (external)
- as accompaniers / advisors / resource persons (internal) both the type of consultancies have their own values or advantages; let us discuss both of them.

5.1 As Evaluators / Auditors / Investigators (external):

For these assignments, generally the appointment is made (or should be made) from outside of the organization (for example, by a donor or other such agency like the government). This is very essential or critical for the purposes of independence. The independence of external consultants empowers them to come out with their suggestions/ observations in an unbiased manner . Therefore, the external consultants should have the ethics of being independent and not emotionally involved with the organization. At the same time, as it is said in Audit Parlance “An Auditor is a watch dog and not a blood hound”, the external consultant needs to be constructive in his/ her approach and recommendation. The threats to independence of auditors are also applicable here.

Various studies on this topic have highlighted five threats to independence. They are:

- Self-interest: This threat is perceived when any member of the audit team could benefit from financial benefit or any other interest with the client.

- Self-review: Preparation of the original data used to generate financial statement would create a self review threat.

- Advocacy: This threat is perceived when a firm or a member of the audit team promotes the client’s opinion to the point that objectivity may be compromised.

- Familiarity: The continued association of the firm with the client would promote this threat

- Intimidation: It occurs when a member of the audit team may be deterred from acting objectively by threats from the client organization.

5.2 As Accompaniers / Advisors / Resource persons (internal):

In this role, it is important for the consultant to be appointed by the organization. This would bring in ownership to the process of consultancy. In this process, the consultant needs to build confidence of the organization in him/her. The primary interest of the consultant should be to enrich the organization through his/her expertise. However, care needs to be taken to ensure that there is no attempt to cover up the short comings of the organizations. If that happens, it may be useful in the short run, but damages the organization in the long run. Even though the consultant may be appointed by the organization, he/ she should be able to influence the organization in raising its standards in accountability.

6. CONCLUSION:

It must be admitted that the role of consultant is a delicate one. He/she has to act like a catalyst and enhance the accountability standards. Therefore, it is very important for the consultants to uphold the highest ethical standards themselves. Added to that, they also constantly need to upgrade their skills and competencies which would eventually help in building the capacity of the organization they are associated with. It is even more important since newer challenges emerge everyday in the ever changing dynamic environment of the voluntary sector.

Finally, it may be said that accountability is a constant and continuous process of achieving higher standards. Therefore, organizations should continuously strive for higher standards of accountability and the consultants play a very pivotal role in the process.

(The author is the Executive Director of Financial Management Service Foundation and specialises in Financial Management, Legal Compliances and Governance related matters of the Voluntary Organizations)

Overview of Fund Accounting

- Manoj Fogla, F.C.A.

INTRODUCTION

01.01 Fund accounting is a system of accounting which is peculiar to NGOs or not-for-profit organisations. Separate records are kept for funds created for certain specified purposes, which may be restricted or unrestricted in nature.

A fund can be defined as,

> *"a fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and residual balances, and changes therein, which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special regulations, restrictions or limitations".*

01.02 In other words, separate funds based on regulations, restrictions and limitations are required to be set up. The restrictions or designations may be placed by the donors or the managemen t. Each fund must be treated as a separate entity and should have its own individual receipt and payment account, income and expenditure account and balance sheet. The individual funds should be consolidated and reflected in the overall statements of the entire organisation.

01.03 Fund Accounting is generally based on the activities and objectives as specified by the donors or outside agencies. Expenditures and resources are segregated in accordance with the source and the conditions attached thereof. However, the trustee/board of the NGOs may also create and designate various funds and also lay down appropriate conditions and norms for each fund.

CHARACTERISTICS AND ADVANTAGES OF FUNDACCOUNTING

01.04 Maintenance of financial records in principles of fund accounting helps in meticulous analysis of each independent activity separately. For instance, if an NGO is engaged in several projects simultaneously, then fund accounting will provide precise information with regard to each and every project at any point of time. Such information could be:

- available cash and bank balance under that particular project;
- investment held under that particular project;
- any surplus or deficit in the project;
- loan given or taken from other project;
- administrative component of that project, etc.

01.05 The availability of financial informations in a project-wise or fund-wise form enhances the financial transparency as well as decision-making. Some distinct advantages could be enumerated as under:

i) Measurement of project-wise and fund-wise performance;
ii) Measurement of project-wise and fund-wise cost of activities and services;
iii) Project-wise and fund-wise management of funds;
iv) Project-wise and fund-wise management of assets;
v) Analysis of the impact of financial decisions;
vi) Identification of project-wise and fund-wise manpower and cost allocation;
vii) Inter-project fund transfers and recoveries thereof;

01.06 From the above analysis it is clear that fund accounting can help in providing various kind of fund/project based informations, which not only cater to the reporting requirements but also help in the decision making processes of the NGO. This paper aims to enhance the understanding of the various principles and characteristics of fund accounting as well as the processes and intricacies involved in implementation of a fund accounting system.

DIFFERENCE BETWEEN COMMERCIAL AND FUNDS ACCOUNTING SYSTEMS

01.07 Commercial organisations have accounting systems that measure product, division and company performance by profit and loss.Accounting in NGOs is also required to measure the incoming and outgoing funds, but NGOs have social and legal responsibilities that extend beyond spending their money wisely. Fund accounting systems help in meeting various social and legal responsibilities which normal accounting systems cannot. Some features of fund accounting are as under :

- tracking and reporting accounting records separately for different funding sources, grants, programmes etc. and being able to allocate expenses across these group of records;
- tracking and reporting across different time periods (frequently not on annual basis), which often may extend to multiple fiscal years;
- keeping funds separately according to donor's restrictions;
- measuring and analysing the success or failure of each programme or fund individually;
- tracking the ratio of overhead to programme expenses;
- producing specialised and specific reports for internal and external purposes;

PURPOSE OF FINANCIAL STATEMENT IS DIFFERENT FOR NGOS

01.08 In commercial accounting financial statements are prepared with a specific purpose for each statement. A profit and loss account is prepared to ascertain the profit and loss during the year. If a company shows high profits then it reflects its success and if it shows losses, it reflects failure. The deficit or surplus in the profit and loss account is directly related with the success and failure of a commercial organisation. But in an NGO the excess or deficit in an income and expenditure account may not provide any meaningful indication of its success or failure.Suppose an NGO is showing very high income over expenditure, but such high surplus may reflect the inability to spend fund for charitable purposes. Therefore, something which is termed as a success in the commercial world may be treated as a failure in the NGO world.

01.09 Similarly, in the commercial world if the profit and loss account is showing losses it would surely be considered as a failure or negative sign. But if an NGO is showing excess of expenditure over income it may be a positive sign. The NGO might have done some exemplary work where some money from its past reserves were also spent. Or on the contrary due to mismanagement or inefficiencies the cost may have escalated resulting in excess of expenditure over income. Therefore, the deficit in the income and expenditure account cannot conclusively indicate anything about the work or activitites of the NGO. It is necessary to obtain more precise and meticulous details of the income or expenditure in order to make any meaningful analysis.

01.10 The moot point is the meaninglessness of conventional accounting statements in context of an NGO. The income and expenditure account fails to provide any definite message about the quality and efficacy of the programmes.

01.11 Similarly, a balance sheet is prepared to signify the state of assets and liabilities at the end of the year. In the balance sheet of a commercial organisation the reader can find:

- the quantum of external borrowings;
- the ratio of equity to loans;
- the unsecured and secured loans
- the creditors;
- the debtors;
- the currents assets, etc.

01.12 Each one of the above can provide a definite insight about the health of a commercial organisation. But again in the case of an NGO it makes very little sense if we try to understand the health of the programme or project through a conventional balance sheet. We will not be able to know:

- the closing balances of individual projects;
- negative project balances, if any;
- investments pertaining to specific funds;
- project-wise assets details;
- break-up of capital/endowment funds;
- break-up of current restricted funds;
- break-up of current unrestricted funds, etc.

01.13 The fundamental difference between an NGO and a commercial organisation is the differential approach towards finance and activities. A commercial organisation does activities to maximise its capital or profits. Therefore, all the energies of a commercial organisation are spent in maximising the profits. On the contrary, NGOs by their inherent constitution do not have any profit motive. All their energies are channelised in maximising the quality of the programme or activities irrespective of whether they are making profits or losses.

The donors or the stakeholders will not appreciate if the NGO is amassing huge wealth or is making huge surpluses from its programme. The reader of the financial statements of an NGO is interested in understanding,

- the level of competence and efficiency in management of financial resources;
- whether the conditions attached to the grants have been complied with or not;
- whether different funds coming from different sources have been properly invested and managed according to the conditions attached by the donors;
- whether all endowments created are intact and are as per the norms laid down;
- whether administrative expenditures are reasonable in comparison to programme expenses, etc.

01.14 The conventional accounting statements may not provide any meaningful insight into the above discussed issues. Therefore, it becomes necessary to maintain sub-system and specific details to generate the desired informations. Fund accounting is one such tool which helps in providing answers to many NGO specific queries. For instance, NGOs create endowments and corpus which may be from internal or external sources. If an endowment fund is created then it implies that certain amount of funds are blocked permanently or on long term basis for certain specific purpose of activities. Now, it becomes important that the NGO as well as the external stakeholders know about the management and methodology involved in such fund. Therefore, the NGO has to maintain separate details for investment, assets, cash and bank balances on account of this particular fund. Similarly, the NGO also has to separately maintain the detail of expenditures made on account of this fund. Fund accounting becomes necessary for maintaining specific fund or activity-wise detail.

(The author is an experienced and practicing Chartered Accountant involved in the various study & evaluation of NGOs. He has written books on Financial Management & Legal Aspects of NGOs for FMSF.)

Standardising Annual Financial Reporting of NGOs

- *Ashok Kothary,*
F.C.A.

1. INTRODUCTION:

1.1. The matter of standardising annual financial statements of NGOs require a pragmatic approach. It is feared that a conventional approach may be self-defeating and may not yield the desired outcome. Though the questions like whether standardisation of accounting and reporting is required? Is standardisation possible? If yes to what extent and will standardisation serve the purpose for which it is intended are not easy to answerAn effort is made in this paper to highlight some issues and share some thoughts with the participants with the intent to learn from their experiences.

1.2. In order to appreciate the issues concerning "Annual Financial Reporting of NGOs" it is necessary to understand the characteristics of NGOs. The phrase "Non-Governmental Organisations" (NGOs) refers to the organisations, though not controlled by the Government, that undertake the activities which are generally expected of a Government i.e. welfare of its subject. The most important characteristic of these organisations is that they do not work for profit. Therefore, they are referred to as Not-for-profit Organisations (NPOs).

The world Bank defines NPOs as *"private organisations that pursue activities to relieve suffering, promote the interest of poor, protect the environment, provide basic social services, or undertake community development"*. Recognising the role of NPOs the Government of India, with the Sixth Five Year Plan, identified some areas like family welfare, health etc. for NPOs' participation. The main features of NPOs can generally be described as under:

a. They do not function for profits and the surplus, if any, is not distributed.
b. They exist only for charitable purpose.
c. They do not promote any religion nor do they carry out any religious activity
d. They operate without any compulsion i.e. voluntary in nature.
e. The ownership interest does not vest with members, contributors or the managers.

2. BACKDROP - FINANCIAL AND NON-FINANCIAL REPORTING:

2.1 The need for developing uniform financial reporting standards would depend on the purpose and the objective of the financial statements. The objective of communicating the economic performance of an NPO cannot be similar to that of a profit making organisation. In India, the standards for recording and reporting of economic performance are prescribed in Accounting Standards pronounced by the Institute of Chartered Accountants of India (ICAI). As in other countries, in India also these standards, by and large, are framed by keeping commercial, industrial and business environment in mind. Perhaps for this reason the prescribed Accounting Standards are made applicable only to those NPOs who undertake commercial, industrial or business activity (Preface to the Statements of Accounting Standards issued by ICAI). NPOs whose activities are not or any part of its activities is not in the nature of commercial, industrial or business is out of the purview of Accounting Standards.

2.2 Preface to the Statements of Accounting Standards issued by ICAI states the objective of financial statements as under:

a. *The objective of financial statements is to provide information about the financial position, performance and cash flows of an enterprise that is useful to a wide range of users in making economic decisions.*

b. *Financial statements prepared for this purpose meet the common needs of most users. However, financial statements do not provide all the information that users may need to make economic decisions since (a) they largely portray the financial effects of past events, and (b) do not necessarily provide non-financial information.*

c. *Financial statements also show the results of the stewardship of management, or the accountability of management for the resources entrusted to it. Those users who wish to assess the stewardship or accountability of management do so in order that they may make economic decisions; these decisions may include, for example, whether to hold or sell their investment in the enterprise or whether to reappoint or replace the management."*

2.3. It is apparent that not all the elements of the prescribed objective are relevant / applicable to NPOs. Also the four principal qualitative characteristics i.e. understandability, relevance, reliability and comparability which make the information in financial statements useful to users, though are equally applicable to NPOs, their scope would differ as compared to that of a commercial enterprise. For example comparability of financial statements of two different NPOs may not be as pertinent as in the case of a commercial enterprise. Also for a user , to make decision, financial information of a NPO may not be as relevant or significant as that of non-financial information.

2.4 A question one needs to address is the usefulness of financial / economic informatioins of an NPO to the users (stakeholders). Different users may have different requirements. The following table indicates stakeholders and their expectations:

	Stakeholders	Broadly the probable expectations
1	Donors	Ensure that the funds are used for the purpose for which they were given and the objective achieved.
2	Beneficiaries	Ensure that the quality of services is maintained and costs do not rise
3	Regulatory bodies	Ensure that the compliances are met with
4	Community at large	Would like to ensure that the Government does not fund the programmes which are not beneficial to a larger population
5	Governing board members	To ensure that the resou rces are properly utilised for the purposes of the organization and mission achieved.
6	The staff	Job and financial security
7	The organisation	The performance measurement is necessary so that it continues to get the funds.

2.5 For each category of stakeholder, measuring success in relation to its expectations is necessary. Rate of return for a commercial organization could be bottom line whereas in non-commercial sector it could be on the basis of success rate in achieving its objective. No doubt, from the financial statements one can measure the performance of NPOs by metrics such as funds raised, people served overhead costs etc. but it is felt that though, these metrics are certainly important, they don't measure the real success of an organization in achieving its mission. The information on amount spent on providing education to rural poor would be meaningless unless one knows the number of students enrolled and their success in examination.

2.6 Although NPOs can never be expected to resemble businesses that can measure their success in purely economic terms, a pragmatic approach is required to make financial statements more meaningful and to quantify the success/impact of NPOs. This perhaps can be achieved by providing non-financial information in the financial statements. This is not new to us. Corporate sector is required to provide a plethora of non-financial information in their Annual Financial Statements. The exact metrics would differ from organisation to organisation, but this problem can be dealt with systematically.

2.7 The communication of information on performance is vital for every stakeholder. Irrespective of its mission or scope it would serve great pupose if a NPO reports on the following:

a. success in mobilizing its resources;
b. staff's effectiveness on the job;
c. its progress in fulfilling its mission; and
d. financials.

The specific metrics that each NPO adopts to assess its performance may differ.

Whereas, first three catagories pertain to non-financial reporting and therefore, not considered at length, the reporting of financials is dealt with in the following paragraphs.

1. **STANDARDISING FINANCIAL REPORTING:**

Though the table giving probable expectations of stakeholders of NPOs is not exhaustive, it gives a fair idea of different expectations of different stakeholders. The Financial Statements must provide as much information as possible to cater, if not to all the needs of all the users, at least as much information as possible to cover broader spectrum of stakeholders. Perhaps establishing a "Common Minimum Requirement" may resolve the issue to an extent.

Some of the issues including those peculiar to Indian NPOs to be taken into consideration, while formulating accounting and reporting standards, could be:

a. Charity is on the Concurent List of the Constitution of India and therefore, a subject of Centre and State The reporting requirement could be different and both governments may need different information for different purpose.
b. Most NPOs operate under disclosure requirements that, by corporate standards, are minimal. Disclosure requirements depend on the legal form in which an NPO is operating. NPOs registered as companies under Sec. 25, Indian Companies Act, 1956 are required to provide information under Companies Act which is much more than, say, NPOs registered under the Societies RegistrationAct, 1860.
c. One NPO (entity) may have different donating/project sponsoring agencies. Also one sponsoring agency may have many different recipients within and outside its own country and each of them may have not only different reporting requirements but also different yardsticks to measure success. Some may measure success only on the basis of utilisation of the funds and others on the basis of target achieved.
d. Reporting requirement under different statutes could be different e.g. under Foreign Contribution Regulation Act, 1976 (FCRA) the reporting is on the funds received and utilised (Receipts and Payment under about 56 heads) basis whereas under tax laws it would be on the basis of accounting system followed by the organisation.

1.1. Some major areas of accounting principles of NPOs would require a special attention while formulating standards. They are given below with some examples, for consideration:

a. Accounting on accrual or cash basis:
In case of accounting on accrual basis, a major issue to be addressed under this category would be the period in which accounting for commitments made by the donors would be done. Whether the recipients of the promise should report the quantum of promise in the year in which the promise is made or the year in which it crystallizes. Similarly the commitment of NPOs to expend on programmes should be reported in the year in which the commitment is made or in the year when it is spent.

b. **Accounting treatment of contributions and commitments - for both cash and non-cash:**

i. Contributions received by NPOs would broadly fall under three categories i.e. Unconditional Contribution, Contribution with Permanent Restriction/s and Contribution with Temporary Restriction. Each category can have different combination or variant e.g. Permanent Restriction could be with regard to capital sum received or income earned thereon, etc.

ii. The issue of accounting treatment to be accorded to each type of contribution and reporting thereof will have to be tackled by keeping in mind 'matching principle". However, in case of funds received for a particular project to be executed by NPO in accordance with the direction of the donor / sponsor, the assumption would be that the NPO is working only as executor of the project and does not have any control over the funds received. This would amount to NPO holding the funds in trust on behalf of the donor / sponsor to be utilised only for the benefit of the beneficiaries or the purpose specified by the donor / sponsor. In such a case it would be improper for NPO to account for and report such contribution in its Income and Expenditure Account, on the basis of matching principle. It would be more appropriate to report such contribution and expenditure in the Balance Sheet under the head "Designated Funds" on liability side.

c. **Accounting for investments:**
Separate reporting is to be made of the investments made out of own funds (unconditional contributions / funds) and other funds e.g. funds held on behalf of donors / sponsors in trust.

d. **Accounting for funds:**
As in case of investments, accounting of own funds and other funds and separate reporting of income arising on such funds is to be made.

e. **Accounting for appropriations and inter- fund transfers:**

f. **Accounting treatment of fixed assets.**

g. **Reporting of functional expenses as distinguished from expenses on activity.**

It is felt that if the above principles are standardised they would provide uniformity and perhaps common minimum requirement for stakeholders to understand the financial statements of NPOs more meaningfully.

3.2 It may be mentioned here that the Financial Accounting Standards Board (FASB) in the USA has so far issued 5 Statements of Financial Accounting Standards (93, 116, 117, 124 and 136) for NPOs. The Statement of Financial Accounting Concepts No. 6 issued by FASB also covers some concepts relevant to NPOs. However, they are also not free from controversy.

2. CONCLUSION:

In social and economic development of India the role of

NPOs can not be undermined. It is rather unfortunate that in a country like India where we have a large number of NPOs, we do not have a single regulatory body for charity. Despite recommendation of several committees on fiscal and social laws the government has not taken steps to have a centralized body for regulating charity. There are different laws specifying different accounting and reporting requirements which do not meet the information requirement of all stakeholders.

One would appreciate that in a paper of this size and keeping in mind the constraints of time it is not possible to cover all the issues on the subject. An effort is made to initiate discussion on the issues concerning accounting and reporting standards of NPOs. The purpose of this paper would be served if it provides a platform for the participants to deliberate at conceptual level, on the issues, which may facilitate in understanding the Common Minimum Requirement of stakeholders of NPOs leading to formulation of Reporting Standards.

(The author is a fellow member of the ICAI with over 32 years of professional experience.)

Disclosure Norms for Non-Profit Organisation

- V. Rethinam, F.C.A.

1. The participants in this consultation have wide experience in accounting and auditing of NPOs. Therefore, it is not necessary to refer the principles and practices, which are presently followed by NPOs. However, it is important to mention, briefly, the background or reasons why the topic has relevance in order to connect to the issues that can be discussed.

2. The legislations applicable to the NPOs, central as well as state, do not lay down the form of Balance Sheet and the requirements as to Income & Expenditure Account. They do not prescribe the matters, which require additional disclosure. The form of Balance Sheet and the Income and Expenditure Account have evolved over the years, based on the specific nature of the non-profit activity and by those who have had an involvement in the preparation and audit of financial statements. It needs to be conceded that the provisions of tax and other laws such as FCRA have influenced the disclosures prevalent currently in the preparation and audit of the financial statements of NPOs. These have had effect as follows:

i) There is no uniform method of accounting

ii) The Accounting Standards published by ICAI are not generally followed

iii) Disclosures practices, as stated earlier, have evolved, keeping in view the nature of the activities.

3. There is no specific accounting standard dealing with NPOs either in India or under the International Financial Reporting Standards. However, there is a Financial Accounting Standard No. 117, issued by the Financial Accounting Standards Board in U.S.A.

The Institute of Chartered Accountants of India (ICAI) have come out with a technical guide on finance and accounting for NPOs. The guide has strongly recommended (practically mandatory to the members of ICAI) the following:

i) NPOs should maintain the books of account on accrual basis (para 3 Point 22)

ii) NPOs should follow Accounting Standards, irrespective of the fact that no part of the activity is commercial or industrial or business in nature.

4. Since, over the past few years, NPOs have a growing and a prominent role in the economic and social activities of the nation, there is a compelling need for transparency in and accountability for, what is expressed through the financial statements. It is necessary to consider and identify information, which needs to be communicated, but which are not done currently. This can be attempted by identifying the nature of Users, who are interested in the information provided in the financial statements of NPOs. The Users, inter-alia, include the following:

i) Members of the NPO

ii) Contributors & grantors

iii) Employees

iv) Economists

v) Govt. and other agencies including tax authorities

vi) Print and other media

vii) Beneficiaries

The main handicaps in adopting the above two recommendations appears to be the lack of trained accountants and management having deep insight and knowledge of the above two recommendations and well drafted legislations.

5. It would be proper to consider areas, which, among other things, do not find prominent disclosure such as

i) Disclosure of accounting policy relating to recognition of revenue and expenses.

ii) Disclosure of contingent liabilities

iii) Disclosure of constraints imposed by the donor / contributing agencies.

6. It is often found that donor agencies, whether it be Government or others, impose certain conditions on the recipient NPOs for using resources. For example, the conditions may include the following:

i) that the fixed assets, if purchased, cannot be sold or disposed off without concurrence of the donor agencies

ii) that the funds shall be utilized for the stated number of beneficiaries

iii) that the income generated from the use of funds, be used in the specified manner

iv) that the NPO shall contribute a specified percentage for the purposes for which the donor has contributed the funds

These restrictions should find a place in the Notes on Accounts.

We find that the current disclosures do not mostly cover the areas suggested hereinabove. In the absence of such disclosures, it is not possible to appreciate or understand the financials by people who are concerned or connected to the objectives.

7. It is also essential that NPOs should disclose the following, which are rarely followed:

i) The legal basis under which it has come into existence

ii) Permanent Account Number (PAN) and Tax Deduction Account Number (TAN) under the Income Tax Act.

iii) FCRA Registration Number

iv) Validity of approval u/s 80G of the Income Tax Act or u/s 35 of the Act.

From the point of view of transparency, there is a need to disclose the managerial remuneration paid to the top executives and transactions with related parties.

The disclosure norms should include application of AS-17 on Segment Reporting, AS-18 on Related Party Transactions and AS-28 on Impairment of Assets.

8. It would be worthwhile to take note of the recommendations under FAS 117, specifically the following:

Financial statement shall report the amounts for each of the three clauses of net assets – permanently restricted net assets, temporarily restricted net assets and unrestricted net assets based on the existence or absence of donor imposed restrictions.

Information about the nature and amount of different types of restriction can be provided either on the face of the statement or by including relevant details in the in the notes to the financial statement.

Cash and other assets received with a donor-imposed restriction that limits their use to long term purposes should not be classified with cash or other assets that are unrestricted and available for current use.

(The author is a Chartered Accountant with long years of association with the development sector.)

Foreign Contribution (Management and Control) Bill, 2005
- An Analytical Review

- Samir Manocha,
F. C. A.

The Foreign Contribution (Management and Control) Bill, 2005 [FC(M&C)] is a bill to consolidate the law relating to the acceptance and utilization of foreign contribution or foreign hospitality by certain individuals or a ssociations or companies and to prohibit acceptance and utilization of foreign contribution or foreign hospitality for anti-national activities, and for matters connected therewith or i ncidental thereto.

The FC(M&C) Bill 2005, at present, is in a draft stage and is available for public response in the website of the Ministry of Home Affairs. This will thereafter be presented to the parliament for enactment, thereby replacing the Foreign Contribution (Regulation) Act, 1976 (FCRA).

Important statistical information

To critically analyze the importance of replacing FCRA, 1976 by FCMC we need to see the flow of foreign contribution to the voluntary sector , its growth over the years and its ratio to the inflow of foreign money in the business sector .

The foreign contributions received by the NPO sector in the year 2002-03 were Rs.5000 crores. There has been a significant increase in the foreign contributions over the years. The receipts in the year 1993-94 were Rs.1865 crores only.

There are 30000 registered organizations in the voluntary sector although only around 16000 organizations have reported their foreign contributions to the Ministry of Home Affairs in the year 2002-03.

Out of the 16000 returns received by the Ministry of Home Affairs, 15 650 organisations have reported receipts of FC less than 1 crore in the year 2002-03. There were only 66 organisations that received FC in excess of Rs.10 crores in the year 2002-03.

FCRA v/s FC(M&C)

Since the FC(M&C) bill has been introduced, it will under all probability be passed in the parliament, with or without modifications, as an Act and will replace the existing FCRA. The endeavor of the representatives of the voluntary sector , professional accounting bodies like ICAI should therefore be to suggest suitable modifications in the proposed bill so that the purpose of the Central Government in introducing the new Act is not lost and the functioning of the organizations in the sector is not made cumbersome.

There has already been a lot of initiative in this regard from various voluntary organizations and numerous representations have been made to the highest decision-making bodies in the Government. The purpose of this article is, therefore, to highlight the issues in the FC(M&C) bill which would be welcome by the NPO sector, issues which could hamper the smooth functioning of the sector and those issues which have been left open-ended by the bill and needs further clarification.

Welcome changes proposed by the FC(M&C) Bill

Foreign Contribution through scheduled bank (section 17):

It has been provided in the bill that the organisation receiving foreign contribution may open one or more accounts in one or more scheduled banks for utilising the FC received. It has been provided further that no funds other than FC shall be received or deposited in such account or accounts.

Though the FCRA had also prescribed opening of a designated FC account for receiving foreign contribution, it is silent on the issue whether the foreign contribution received in the designated account can be subsequently transferred to various project accounts for utilization.

Thus the clarification provided in the FC(M&C) bill is a welcome amendment as now there is no bar in transferring amounts received in the designated FC account to other FC accounts opened for the purpose of the projects that may be spread over the length and breadth of the country. It has also been clarified that no local money can be deposited in any of these accounts.

Explanations/ clarifications with respect to indirect foreign receipts (2nd recipients) and interest earnings to be part of FC, spelt out.

The FCRA is silent on the treatment of interest earned on foreign contribution, although Form FC-3 was revised in 2001 to include interest earned on FC bank accounts and FDs under FC receipts. This has been now clarified in FC(M&C) wherein in the definition of the term 'Foreign Contribution', under section 2(f), it has been specifically provided that interest earned on foreign contribution shall be treated as foreign contribution.

Exclusions from FC w.r.t. fee received for attending conferences in India, subscription for printing journal in India clearly explained in Bill. (Explanation 2 & 3 to Section 2(1)(f)).

The FCRA was silent on the above issue. This clarification given in the Bill should ensure better management/ disclosure

Certificate of Registration (Section 12(4)).

Where the registering authority refuses registration or prior permission, it shall record reasons for such refusal and furnish a copy thereof to the applicant. Also, any person aggrieved by the decision of the Registering Authority may appeal to the Central Government.

Decentralization of registration

The Bill proposes to decentralize registration of the organizations. The FCRA allowed the registration of the organizations only with the Central Government having its office in New Delhi. The Bill proposes to appoint a "RegisteringAuthority" which probably means having a better geographical coverage and would facilitate registration and other matters for organizations spread across the country.

Definition of "foreign contribution" includes transfer made by any foreign source of any article if the market value, in India, of such article is not more than Rs.10000/- (Rs.1000/- in the Act.)

Association does not include Government Companies and societies owned or controlled by Central/ State Government. (Section 2(1)(a)).

Changes proposed in the Bill, detrimental to the NPO sector

Restriction to use FC for administrative purpose - Section 8(1a) and (2)

FC(M&C) provides that the utilization of FC should for the purposes for which it is received and not to charge more than 30% towards administrative costs. The Central Government will prescribe the manner in which the administrative costs will be calculated.

FCRA did not provide for such restrictions although it is inherent in the functioning of all voluntary sectors to restrict administrative costs. No specific percentages are specified but certain unwritten rules applied when it came to filing returns with authorities such as Income Tax etc.

Registration - Sec. 11(1)

Organizations already registered with the existing FCRA would be allowed a time period two years within which they have to obtain registration under the proposed bill.

Renewal of Certificate – Sec. 16

The certificate of Registration under the proposed bill shall be for a period of 5 years. Also, the organizations can get their certificates renewed within 2 years before the expiry of the period of certificate of registration.

The registration granted in FCRA is permanent in nature and therefore does not need to be renewed. This provision in the FC(M&C) could create hardships to the sector as a lot of time & effort would go in renewal and other administrative issues.

Prior permission

Sec.11 (3) would by notification in the official Gazette, specify the person or class of persons who can obtain prior permission; area or areas in which the FC shall be accepted and utilised; purpose or purposes for which the FC will be utilised and source and sources from where the FC shall be accepted. These restrictions are applicable even to an organization who may be already registered under section 11(1) of FC(M&C).

Grant of certificate of Registration- Sec12(1):

The many criteria specified for granting registration includes that the person making the application:

- is not fictitious or benami;
- has undertaken meaningful activity in its chosen field for the benefit of the people;
- has prepared meaningful project;
- has not created communal tension;
- has not indulged in activities aimed at conversion through force from one religious faith to another;
- has not been found guilty of diversion or misutil isation of its funds;
- is not engaged or likely to engage or advocate violent methods to achieve its ends;
- is not likely to use the foreign contribution for personal use or divert it for undesirable purposes;
- has not contravened any of the provisions of the Act;
- his certificate has neither been suspended or cancelled earlier;
- has not been prohibited earlier from accepting foreign contribution.

The FCRA has no such written rules. Some of the above provisions, by using the words "likely", makes it very vague and subjective and therefore could prove detrimental to the sector.

Disposal of assets created out of FC – Sec.22:

Under FC(M&C), it has been provided that the Central Government, having regard to nature of assets created out of FC, by notification, specify such assets which shall be disposed off and the manner in which it shall be disposed of.

The provision is very open ended in the sense it gives no clear directive as to the kind of fixed assets it is talking about, and how it will be disposed.

Provisions left open ended, requiring further clarification

FC(M&C) has specified that the Central Government has the power to make rules for carrying out the purposes of this Act. Out of the total 29 aspects of the FC(M&C) that the rules will address, the following needs immediate attention:

- The identity of the registering authority.
- The ground(s) on which an organization may be deemed to be of a political nature. Section 5(1) allows the Central Government to exercise its own discretion in determining whether the activities, ideology, programme or association with a political party, by any organization, warrant its notification in the Official Gazette as an 'organisation of a political nature not being a political party'.
- The manner in which 30% of administrative expenses shall be calculated for purposes of utilizing foreign contributions.
- The manner of utilizing foreign contribution specified in section 13(3)(b) in the event of suspension of the registration certificate.
- The identity of the authority with whom foreign contributions of those whose certificate has been cancelled will be in custody and the manner in which such contributions will be managed.
- The manner in which assets shall be disposed of by the NPOs.
- The person or class of persons who can obtain prior permission; area or areas in which the FC shall be accepted and utilised; purpose or purposes for which the FC will be utilised and source and sources from where the FC shall be accepted.
- The fees to be deposited for registration, appeal etc. has not yet been specified.

The above issues are points to ponder. I still believe that taking an entirely negative view towards the proposed FC(M&C) Bill would not serve any purpose. Issues having adverse impact on the functioning of the sector need to be highlighted and taken up at the highest level. The large NGOs have had a number of forums in this regard and I believe that action has already been taken up. However, a representation by the accounting bodies such as the ICAI would be more than welcome.

Last Words

The fear that foreign funds are being used to subvert the security of the state is not well grounded ... so long as the laws requiring accountability and transparency from NGOs are applied firmly but fairly, the responsible organ will know whether any NGO, whether funded locally or from abroad, has used funds improperly. If it has, vigorous steps should be taken to correct the abuse and preclude its repetition. Requiring advance approval for foreign grant is a wasteful, dilatory and excessively bureaucratic approach. (Extract from handbook on NGO – World Bank Report)

(The author is a practicing Chartered Accountant and he specialises in audit, risk analysis with long years of association with the development sector.)

NEWS

FMSF bids farewell to Ms. Erika Maerke *and* welcomes Mr. Heiner Knauss of EED, Germany

Adieu Ms. Erika Maerke, Head, South and Middle Asia Desk, EED, Germany

Ms. Erika Maerke born in 1953 is a political scientist and has degree in Economics and Rural Sociology. She joined EZE for the first time in 1978. In between, she has taken breaks from her work to continue her studies and also to be associated with other research work. In 1993, she joined South and Middle Asia Desk of EZE as a Programme Officer. In 1998, she became the Head of the desk. Now she has been appointed as Head, East, South East and Southern Africa desk of EED. We at FMSF wish her all the success in her future endeavors.

Welcome Mr. Heiner Knauss, New Head of Asia/Pacific Desk, EED, Germany

Mr. Heiner Knauss takes over as the Head of Asia/Pacific Desk of EED upon the merger of South and Middle Asia Desk and the South East, East Asia and Pacific Desk of EED. Mr. Knauss, born in 1950 is a lawyer by profession. He joined EZE in 1983 in Latin America Desk. He has lived in Peru from 1980 till 1983 and in Zambia in East Africa from 1991 till 1994. From 1998, he has been working as Head, South East, East Asia and Pacific Desk of EED. We hope for a fruitful co-operation with Mr. Knauss in the future.

Foreign Contribution (Management and Control) Bill, 2005
- Implication on NGOs

- Sudhir Varma
F. C.A., C. I.A (U.S.A.)

BACKGROUND

Funds from outside India have played an important and a majorrole in development of the social sector in this country . It is estimated that more than Rs. 5,000 crores are received annually for charitable activities, research, development and capacity building. Government of India has been concerned to ensure that the money received by this sector is not utilized for any anti-government or anti national activities. In order to keep a control on these funds, in 1976 the government introduced "The Foreign Contribution (Regulation) Act". At the time when this Act was introduced, it was done in a hurry and more specifically to control funds coming into India for anti government activities. Because of the increasing threat from political opponents, the Act was drafted keeping this in mind and little thought was given to the working of NGOs' in this country. The result was that NGO's have been facing many problems in their working under the FCRA and have been constantly demanding either amendments to the Act or a completely new Act. This pressure on the government has been further increased after FERA has been replaced by FEMA. Since both FERA and FCRA were dealing with foreign exchange, it was argued that on the same principles on which FERA has been diluted, the FCRA should also be diluted.

The government has been pondering over this issue for a long time and has finally introduced the Foreign Contribution (Management and Control) Bill, 2005. This Bill has created many apprehensions in the minds of people connected with the NGOs'.

There are many issues, which are not clear from the Bill, and particularly since the Rules under the Act have not been drafted yet, many questions remain unanswered. These issues and concerns are increasing the insecurity in the minds of people connected with the NGO's. Many debates have been held and representations have also been made to the government at various levels and forums. The concerns have been communicated and we are hoping that they will be taken careof before the Bill is finally passed.

Let us understand the implications of the new FC(M&C) Bill, 2005. These can be broadly categorized under the following heads: -

1. Registrations
2. Renewals
3. Utilizations of funds
4. Suspension / Cancellation

1. REGISTRATIONS

The first implication of the new bill is that all existing NGO's will have to re-register themselves under the newAct. This means that the old registration will not hold good under the new Act. The NGO's have been given a time of two years to get the new registration but the norms and rules for registration have not yet been defined. This means that there cannot be an assumption that if you are registered under the FCRA, you will get registration under the FC(M&C). This leaves the NGO's with a lot of uncertainty and insecurity.

The new registrations have been made valid for a restricted period of 5 years only. This means that after every 5 years, the NGO's have to go back to the concerned authorities for renewal. The renewal is also not automatic or cannot be assumed. The working of the NGO's will be appraised and then renewals shall be granted. This will greatly affect continuing projects like running of hospitals, educational institutions or vocational training centers etc. This provision can restrict the scope of activity and the planning process in many ways.

New entrants in the development sector have not been encouraged. Only those NGO's would be entitled for registration that have done meaningful activity in the field. This has been a great constraint for people working in the NGO sector but who wanted to branch out on their own.

If registration is refused to any NGO, a provision for appeal has been provided in the Bill. Also reasons of refusal are to be communicated. However, no time period has been provided within which these appeals would be decided. If there is undue delay in deciding the appeal, the NGO can loose important opportunities to implement their projects.

For the first time, a fee has been prescribed which must be paid while applying for registration.

2. *RENEWALS*

While registrations are valid for a period of 5 years, applications for renewal can be made after 3 years i.e. 2 years in advance. If this is the time expected to be taken by the government for granting a renewal, there can be many problems for NGO's who apply in the later part of the 5th year of their registration.

No time frame has been laid out for the disposal of renewal applications. It is not clear as to when an NGO should apply for renewal so that they can obtain it in time before their registration expires.

However, if there is a gap of time from the date of expiry of registration and the granting of renewal, nothing has been prescribed as to how the NGO should deal with this situation or worse, how the government will treat this gap. There are many instances where there is a regular flow of funds required for ongoing projects and whether NGO's would be entitled to receive funds during this gap is an important concern.

We are also not clear whether the new registrations will be granted from the date of application or on the basis of financial years. This will also affect the period of renewals.

There are more than 30,000 registrations under FCRA and if they are to be registered again together, the government will need adequate machinery to grant these registrations IN TIME and also renew these registrations every 5 years IN TIME.

3. *UTILIZATIONS OF FUNDS*

Multiple bank accounts for Foreign Contribution (FC) Funds have been permitted under the new Bill. This provision alone solves many operational problems of NGO's. Many of these NGO's work all over the country and particularly in smaller towns and villages. They were finding many problems in reaching funds to the project areas under the existing provisions of FCRA. But there are some rules, which have been framed but do not seem to hamper the working of NGO's. The condition to receive FC Funds in only one bank account as registered with the authorities will continue but what has been allowed is that funds can be subsequently transferred to other bank accounts for different locations and different projects. These subsequent bank accounts will be covered under the FC(M&C) but no amounts can be credited to these bank accounts other than transfer of funds from the main FC(M&C) account. This facility can help the NGO maintain different bank accounts for different projects as well, which has been a long outstanding demand of many donor agencies who want their funds kept in a separate bank account. The facili ty of transf erring funds to different locations through the banking channel is a great help in the working of NGO's.

The definition of FC Funds has been enlarged to include income earned from FC Funds. This means that all the interest, dividend or other returns that the NGO gets on the FC Funds would form a part of the FC Funds and would therefore be covered under the provisions of FC(M&C). However , distinction needs to be made between income earned from FC Funds and income earned from assets / facilities acquired from FC Funds. While there can be no problem in the former but in the latter case where incomes arise from assets / facilities acquired from FC Funds the said income cannot be practically reported and included alongwith the FC Funds. To illustrate this point if a hospital acquires an equipment partly from FC Funds and partly through its own resources or local donations, how much of income from the equipment can be attributed to FC Funds can never be worked out.

It has been specifically provided that:

a. FC funds can be used only for the purpose for which they have been received.
b. Only 30% of FC Funds can be utilized for administration expenses.

What about FC Funds which are received for administration expenses? There are many NGO's who receive a core grant for administration expenses like rent, electricity, telephone and even salaries. A distinction has also not been made between administration expenses of a program and administration expenses for the institution. These situations need a clarification.

The Bill also provides that the government will intervene in matters relating to fixed assets acquired from FC Funds. The government shall decide the assets which can be disposed off, including the manner and procedure of disposal. Till now these decisions were left to the donor and the NGO.

1. *SUSPENSION / CANCELLATION*

The FC(M&C) authority has the power to suspend or cancel the registration of an NGO. The reasons given in the Bill on the basis of which suspension / cancellation can take place are quite wide are and open to interpretation. A fear of misuse cannot be ruled out. However, there is a provision that the NGO shall be given an opportunity before passing any such order .

A suspension of registration can be for 90 days.

An order of cancellation is effective for atleast 3 years before a new application for re-registration can be made.

On suspension / cancellation of registration the government has the authority to take charge of FC Funds with the NGO and can also seize assets acquired from FC Funds.

It has al so been provide d that no person can be an office bearer of an NGO who has either been prosecuted or there are proceedings pending against him in a court of law It is ironical that if proceedings are pending in a court of law against an individual and he has not yet been convicted, he cannot be an office bearer of an NGO but he can be a parliamentarian of this country.

CONCLUSION :

From the reading of the FC(M&C) Bill,2005 the intent of the government is not clear . What appears is that the government wants to have complete control over the funds received by the NGO's and some of the provisions in the Bill give the impression that once the funds come into India, they belong to the government and it becomes their responsibility to monitor the use of such funds. On the one hand the government justifies the FC(M&C) Funds on the grounds of national security to control anti-national activities and on the other hand they want to make provisions in the bill, which control the extent of money used for administration expenses, or to control money spent for perso nal gain of individuals. How these activities are anti-national and need to be controlled in the FC(M&C) is notclear.

The government must be more transparent in its intent and should simultaneously bring the Rules under theAct so that many of the questions and insecurities of the NGO's can be laid to rest.

(The author is a practicing Chartered Accountant and has more than 25 years of experience in the development sector .)

Accrual Basis of Accounting in NGOs and its Implications

- K. N. Gupta, F.C.A.

ACCRUAL BASIS OF ACCOUNTING IN NGO'S AND ITS IMPLICATIONS

INTRODUCTION

- Accounting is the discipline which provides financial and other information essential to the efficient conduct and evaluation of the activities of any organization.
- Accounting is the tool for proper financial management. Sound financial management is essential in all organizations – profit or non-profit- where funds are involved. It attempts to use the funds in the most productive manner.

BASIS OF ACCOUNTING

- The term 'basis of accounting' refers to the timing of recognition of revenues, expenses, assets and liabilities in accounts. The commonly prevailing basis of accounting are:

  a) Cash Basis of Accounting; and

  b) Accrual Basis of Accounting.

Cash Basis of Accounting

Under cash basis of accounting, transactions whether of capital or revenue nature, are recorded **when the related cash receipts or cash payments take place.**

- Thus **revenue** (e.g. from donations, grants etc.) **is recognized when cash is collected**.
- Similarly, **expenditure** on acquisition and maintenance of assets used in rendering of services as well as on employee remuneration and other items is recorded when the related payment take place.
- **The end-product of cash basis of accounting is a statement of Receipts and Payment Account** which classifies cash receipts and cash payments under different heads.
- **A statement of assets and liabilities may or may not be prepared.**

Accrual Basis of Accounting

- Accrual basis of accounting is the method of recording transactions by which revenues, costs, assets and liabilities are reflected in the accounts **in the period in which they accrue.**
- The accrual basis of accounting including considerations relating to deferral, allocations, depreciation and amortization.

- This basis is also referred to 'Mercantile Basis of Accounting'.

- Accrual basis of accounting attempts to record the financial effects of the transactions and other events of an enterprise in the period in which they occur rather than recoding them in the period(s) in which cash is received or paid by the enterprise.

- Accrual basis recognizes that the economic events that affect an enterprise's performance often do not coincide with the cash receipts and payments.

- The goal of accrual basis of accounting is to relate the accomplishments (measured in the form of revenues) and the efforts (measured in terms of costs) so that the reported net income measures and enterprise's performance during a period rather than merely listing its cash receipts and payments.

- Apart from income measurement, accrual basis of accounting recognizes assets, liabilities or components of revenues and expenses for amount received or paid in cash in past and amounts expected to be received or paid in cash in future.

LEGAL POSITION

The Companies Act, 1956 – Section 209(3)

- NPOs registered under the Companies Act, 1956 (i.e as Section 25 companies) are required to maintain proper books of account so as to give a true and fair view of the state of the affairs of the company and to explain its transactions; and such books are kept on accrual basis and according to double entry system of accounting.

- If the books are not kept on accrual basis, it shall be deemed as per the provisions of the aforesaid section that proper books of account are not kept.

The Indian Trust Act

The Society Registration Act, 1860

- There is no specific provision with regard to the methods of accounting to be followed by NPOs covered under the aforesaid Acts.

- Generally, non-company small NPOs maintain their books of account on cash basis as it is considered simple.

- However large NPOs (say having gross receipts of Rs. 5 Lacs and above) try to follow accrual basis of accounting.

PROVISIONS OF INCOME TAX ACT, 1961 RELATING TO METHODS OF ACCOUNTING

- Section 145 of the Income Tax Act, 1961 specifies that:

  - The income chargeable under the head "Profits and Gains of Business or Profession or "Income from Other Sources" is to be computed in accordance with either cash or mercantile system of accounting **regularly employed** by the assessee (which also includes voluntary organizations).

  - Accordingly, from assessment year 1997-98, all voluntary organizations **are required to maintain their books of account either on cash or mercantile system of accounting on**

regular basis.

- This section also empowers Central Govt. to notify accounting standards to be followed by any class of assessees or in respect of any class of income.

- The Central Govt. has notified the following accounting standards to be followed by all assessees following mercantile system of accounting. For example:

  - Accounting Standard I relating to disclosure of Accounting Policies.

  - Accounting Standard II relating to disclosure of Prior Period and extraordinary items and changes in Accounting Policies.

FCRA, 1976

- As per the provisions of FCRA and rules framed therein, NPO's are required to submit a Statement of Receipts and Payment Account in respect of receipt and utilization of foreign contributions alongwith a Balance Sheet.

- This implies that FCRA recognizes Cash Basis of Accounting.

FUNDING AGENCIES

Most of the funding agencies primarily require their assisted NPOs to submit a financial statement in a prescribed form or otherwise at periodical intervals to show:

a) the actual receipts
b) disbursements
c) utilization of grant amounts
d) and unutilized balances,

thereby approving the Cash Basis of Accounting.

ICAI RECOMMENDATIONS

- Accrual is the scientific basis of accounting and has conceptual superiority over the cash basis of accounting. It is, therefore, recommended that all NPOs, should maintain their books of account on accrual basis.

ACCRUAL BASIS AND ACCOUNTING STANDARDS

- Accounting is often said to be a social science. It operates in an open and ever-changing economic environment.

- The nature of transactions entered into by various enterprises and the circumstances surrounding such transactions differ widely.

- The characteristic of accounting measurements historically led to the adoption of different accounting practices by different enterprises for dealing with similar transactions or situations.

- Comparability is one of the important qualitative characteristics of accounting information.

- This implies that the information should be measured and presented in such a manner that the users are able to compare the information of an enterprise through time and with similar information of other enterprises.

- Adoption of different accounting practices by different enterprises for similar transactions or situations tends to reduce the comparability of accounting information.

- Recognizing the need for bringing about a greater degree of uniformity in accounting measurements, the trend all over the world now is towards:

  a) following the accrual basis of accounting;

  b) formulation of accounting standards to be adopted in preparation of accounting information and its presentation in financial statements.

- Accounting standards lay down the rules for measurement and presentation of accounting information by different enterprises.

- In India, the task of formulating accounting standards has been taken up by the Institute of Chartered Accountants of India.

- Accounting Standards issued by the Institute are based on the fundamental accounting assumption of accrual basis of accounting.

- These standards thus reflect what can be construed as proper application of accrual basis of accounting to different types of transactions and events.

ICAI RECOMMENDATION ON APPLICABILITY OF ACCOUNTING STANDARD

· As per ICAI, Accounting Standard issued by the Institute do not apply to an NPO if no part of the activity of such entity is commercial, industrial or business in nature. The standards would apply even if a very small proportion of activities is considered to be commercial, industrial or business in nature.

APPLICABILITY OF ACCOUNTING STANDARDS AND EXEMPTIONS/ RELAXATIONS FOR SMEs (SMALL AND MEDIUM ENTERPRISES)

Classification of Enterprises

Apart from other criteria (like listing in Stock Exchange, borrowings including public deposits etc.), turnover has also been made the basis for classification of enterprises into Level-I, Level-II and Level-III:

Level I	Level II	Level III
Turnover above Rs. 50 crores	Turnover above Rs. 40 Lacs but upto Rs. 50 crores	Below Rs. 40 Lacs
Applicability of A.S	**Applicability of A.S**	**Applicability of A.S**
All	AS 1 to 2 AS 4 to 16 AS 22 and 26	AS 1 to 2 AS 4 to 16 AS 22 and 26
Non – Applicable	**Non- Applicable**	**Non- Applicable**
None	AS 3 AS 17 - 18, 21, 23, 24, 27	AS 3 AS 17 - 18, 21, 23, 24, 27
Relaxations :	**Relaxations (Partly)**	**Relaxations (Partly)**
None	AS 19 AS 20, 25, 28, 29	AS 19 AS 20, 25, 28, 29

RECOGNITION OF REVENUE RECEIPTS AND EXPENDITURE ITEMS AS PER CASH BASIS AND ACCRUAL BASIS OF ACCOUNTING

Revenue Receipts

- Revenue Receipts normally consist of:
  - Grants
  - Interest on Investments
  - Annual Subscriptions
  - Donations
  - Misc. Receipts

- Revenue Expenditure normally consist of:
  - Programme Expenditure
  - Programme Coordination – Administrative Expenditure
  - Others
  - Depreciation

The treatment of the above major items of revenue receipts and expenditure under cash basis and accrual basis of accounting is as under:

	Particulars	Cash Basis of Accounting	Accrual Basis of Accounting
1	Grants	On actual receipts basis	On actual receipts basis / sanction letter basis
2	Interest on Investments	On actual rec eipt basis	On due basis (whether actually received or not)
3	Annual Subscription	-do-	-do-
4	Donations	-do-	On actual receipt basis
5.	Misc. Receipts	-do-	-do-

Revenue Payments / Expenditure

Particulars	Cash Basis of Accounting	Accrual Basis of Accounting
Programme Expenditure	On actual payment basis	On actual payments plus year end adjustments on accrual / due basis
Progrmme Co -ordination – Administrative Expenditure (Rent, Salaries, Telephones, Vehicle Running Expenses etc.)	On actual payment basis	On actual payments plus year end adjustments on accrual / due basis
Others	-do-	-do-
Depreciation	Normally charged	Charged as per Straight Line / W.D.V Method as per Income Tax Rates / on independent assessment basis.

(The author is a fellow member of ICAI with over 35 years of professional experience)

The Third Confluence of Forum for Ethics, Accountability & Transparency (FEAT)

- A Brief Report

The Third Confluence of FEAT was held on 21st and 22nd February 2006 at the Gold Palace and Resorts in Jaipur. It was organized by FMSF and was held in cooperation with the East Delhi Study Circle of ICAI. The process was overall moderated by Mr. Amit Arora, a qualified chartered accountant and a television and radio news anchor. The confluence was set off with a welcome note by Mr. Sanjay Patra, Executive Director of FMSF. Mr. Sunil Goyal, the President of South Asian Federation of Accountants (SAFA) presented the key note address. The two day confluence had 5 technical sessions. The first technical session was on 'Ethics, Accountability, Good Governance - The Role of Consultants.' The speakers for this session were Ms. Belinda Bennet and Mr. Sanjay Patra. The second technical session was on 'Evolving Uniform Reporting systems for the NGO Sector – Issues and Options'. Mr. Manoj Fogla, Mr. Ashok Kothary and Mr. Sanjay Rastogi were the speakers for the session. Mr. Fogla spoke on Fund Based Accounting as a means for providing donor agencies and NGOs with meaningful information regarding the progress and success of individual projects. Mr Kothary stressed the importance of standardizing accounting practices in the voluntary sector. Mr. Rastogi in his presentation emphasized the importance of establishing clear linkages between financial and activity reporting as a means for enhancing accountability, transparency and good governance in organizations. The third technical session had Mr. Samir Manocha and Mr. Sudhir Varma as its speakers and it was on 'Foreign Contribution (Management & Control) Bill, 2005' and Its Implications. Both the speakers in their presentations provided an overview of the bill and the issues that may hamper the smooth functioning of the sector. The fourth session was on Accrual Basis of Accounting and Mr. K.N.Gupta and Dr. Avinash Chander presented their views on it. The final session was on the key issue of the 'Independence of Auditors' and the speakers for this session were Mr. Joselyn Martins and Mr. R. Balachander. A task group was formed at the beginning of the confluence which had the prime responsibility of compiling the outcomes and conclusions from various sessions. The two day confluence was concluded with all participants being felicitated by FMSF, followed by a vote of thanks by Ms. S.P.Selvi on behalf of FMSF.

Consultation on Review of Tax Exemptions / Deductions proposed by CBDT

- A Brief Report

The Government of India has taken many steps for simplifying the tax system in India. In order to simplify the laws, minimize distortion with the tax structure, the Union Government plans to review the exemptions that exist in the Income Tax Act, 1961. To avoid any radical change in the Act, The Central Board of Direct Tax (CBDT) on behalf of the Department of Revenue, Government of India is keen to involve the stake-holders in the process. Some of the provisions of exemptions proposed for debate are relevant to the Voluntary Sector. In India, voluntary organizations play a significant role in the socio-economic development. VANI in association with FMSF arranged consultation on review of tax exemptions/ deductions proposed by CBDT, to discuss the effects of any changes in provisions relating to exemption in the Income Tax Act, 1961 which are related to NGOs. This consultation was held on 7th June 2006. VANI had invited various voluntary organizations, tax experts, finance professionals, representative of ICAI, Planning Commission etc.

The consultation / meeting was started with the introductory note of Ms. Shakina Mushtaq of VANI. Mr. Sanjay Patra, Executive Director of Financial Management Service Foundation, chaired the meeting. At the beginning Mr. Sanjay Patra delivered his welcome address and then requested Mr. Manoj Fogla, Chartered Accountant, to give an overview of various exemptions and their implications on voluntary organizations. During the presentation made by Mr. Fogla, the legal scenario prior to the enactment of the Income Tax Act, 1961 was reflected wherein the income of the not-for-profit organizations was totally exempted from tax. Even when the Income Tax Act came into existence, the voluntary contributions and corpus contributions were not considered as part of the income. It was further stated that with the various insertions and amendments made in the Finance Act from time to time, we can see that many of the privileges which were existing for non-profit sector prior to the enactment of the Income tax Act in 1961 have been systematically withdrawn over a period of last 45 years. With the various amendments, the non profit sector has only lost its privilege to be effective instruments of social change.

After the presentation of overview of various exemptions in Income Tax Act, 1961 and their implications on NGOs, the floor was open for discussion. The open discussion among the participants took place under the following categories:

1. Existing provisions as per which income is not considered as part of total income
2. Existing exemptions available to the NPO sector (i.e sect. 11, 12 & 13)
3. Deductions available on the basis of expenditure/donors
4. Deductions to be made in computing total income in respect of certain donations

During the discussion it was realized that there is an effort to limit the space available to the NGOs within the legal framework. The members also expressed that NGOs need to have high credibility in complying with the genuine obligations with the government.

Apart from this, on the basis of the rationale discussed in the section 'overview of various exemptions and their implications to NGOs' it was decided that the representation before the Government should be made on the following lines:

- The provisions categorized under the Group-1 should not be altered. Further the procedures for getting exemptions should also be simplified. The approval for the Institutions or organization u/s 10(23) should be in perpetuity unlike it is now being restricted for certain period of time. Further a clear time frame to dispose the application by the Income Tax Department should be inserted

- Status quo should be maintained in the provisions under Section- 11, 12 and 13 which have been categorized under Group-2. The provisions under these Sections should not be altered or removed from the Act. The organizations are already under stringent restrictions like utilization of receipts (85% of receipts has to be utilized to get tax exemption), time limit for the utilization of funds (Time limit of 5 years for utilizing fund accumulated), etc. Therefore it is would not be reasonable to put further restriction.

- The expenditures under Group3 should be allowed as it is there in the Act at present. The removal of privileges under this would lead to discourage the organizations , especially business organization to spend more in the development activities. This will limit their Corporate Social Responsibility.

- Section 80G should not be removed from or altered in the Income Tax Act, 1961. Further the provisions of the Act should be considered for simplification. Presently NGOs have to get separate registration under Section 12A and Section 80G of the Income Tax, 1961. However the Government may consider one registration both for Section 12A and 80G. The registration should be in perpetuity without any time restriction.

- The new provisions of imposing tax on anonymous donations should be withdrawn as the ultimate utilization of fund is for charitable purposes and social cause. The Government is not justified on imposing tax on such donations.

Following the above consultation, FMSF in co-operation with VANI has prepared a Memorandum of Representation (MOR) to the Central Board of Direct Taxes (CBDT). Since CBDT has given 5th July 2006 as the deadline for receipt of comments on various tax provision, FMSF shared the memorandum with its partner network requesting them to send their representations to CBDT. The Memorandum drafted is presented here for your information.

Review of Tax Exemptions/ Deductions proposed by CBDT Vide Circular No. F.No.149/124/2006-TPL (Pt.)

Introduction

The Government of India has been taking steps to simplify the tax system in India. In order to simplify the laws and minimize distortion with the tax structure, The Union Government plans to review the exemptions that exist in the Income Tax Act, 1961. To avoid any radical change in the Act, The Central Board of Direct Tax (CBDT) on behalf of the Department of Revenue, Government of India has taken the initiative to involve the stake-holder in the process. Some of the provisions of exemptions are relevant to the Voluntary sector or the Development Sector. In India, voluntary organizations play a significant role in the socio-economic development of the country. Voluntary Action Network India (VANI) in association with Financial Management Service Foundation (FMSF) has prepared this memorandum of representation which is presented before the Department of Revenue, Central Board of Direct Taxes, Tax Policy & Legislation Division, Government of India, to protect voluntary organizations from the negative effects of any changes in provisions relating to exemption in the Income Tax Act, 1961 which are related to NGOs.

An overview of the exemptions and their implication on voluntary organization:

Before 1961, when the Income Tax Act was not in existence, the income for Non Profit organisations was totally exempted from tax. When Income Tax Act came into existence in 1961, even at that time the voluntary contributions and contribution to corpus were not considered as part of the income of an non profit organisation u/s 2(24) of Income tax Act,1961. Only receipts like Membership Fees, income from investment of General Funds, income from investments from Corpus Funds were treated as income. However, in 1972 when Section 12 which was inserted by Finance Act 1972 and also the insertions of clause (iia) to Section 2(24) implied that the voluntary contributions were included in the definition of income.

Again in Direct tax laws (Amendment Act 1989), Section 2(24) (ii a) was further amended to include even corpus donation as part of total income. Section 11(1) (d) was simultaneously introduced to provide exemptions to the contribution towards Corpus.

In the Finance Act 2001, the time period for the accumulation of income by the non profit organisations, which was earlier allowed to be accumulated or set apart for the period of 10 years was reduced to 5 years u/s 11(2).

Further in the Finance Act 2002, two very significant changes were brought in which adversely affected the functioning of the voluntary sector. Firstly the accumulation of income which was earlier allowed to be accumulated or set apart not in excess of 25 % was reduced to 15% and secondly inter charity donations out of the accumulated funds was not allowed from 1.04.2003.

In Finance Act 2006, Section 115BBC was inserted, according to which any charitable organisation receiving anonymous donations would be charged tax at maximum marginal rate. Under this section, donations to partly religious and partly charitable institutions /trusts would be taxed only if the donation is specifically for an educational or medical purpose. However donations to wholly religious institutions and trusts will not be covered by this section.

In the above explanations we can see that many of the privileges which were existing for non profit sector prior to the enactment of the Income tax Act in 1961 have been systematically withdrawn over a period of last 45 years. With the various amendments, the non profit sector has only lost its edge to be effective instruments of social change.

Observations and Recommendations:

As of now, the provisions of Income Tax Act, 1961 as amended from time to time, treat all organizations, trust etc., in the same footing which have been found to be somewhat detrimental to the growth of organizations especially in the field of socio-economic development, eradication of social injustice and alleviation of poverty.

It is therefore, suggested that some provisions be made in the structure of the Act to help such NGOs to grow in the following manner:

Income which does not form part of Total Income:

- **Section 10(23)(i) to (vi a)**

Observation:
Section 10(23C) (i) to (vi a) of Income Tax Act, 1961, provides that certain income of the institution or organizations by specific activities shall not form the part of Total Income of the institution/ organization.

Recommendation:
- The provisions under Section 10(23C) (i) to (vi a) should not be altered,
- However the procedure for getting these exemptions should be simplified and also should be made time bound for the Income tax department for granting these exemptions.
- The approval for the institutions or organization should be in perpetuity unlike it is now being restricted for specific period of time since it is a time consuming process and also instead of being time bound it should be made more compliance oriented.

Further a clear time frame of six months to dispose off the applications under Section 10(23C) (i) to (vi a) by the income tax department need to be inserted.

Specific exemptions granted to Charitable Organizations:

- **Section 11 to 13**

Observations:

Section 11 to 13 of the Income Tax Act, 1961 deals with the exemptions that are available to charitable organization/ trusts from the income of property held by such charitable organization, contribution, etc.

Recommendation:

- In principle, status quo should be maintained in the provisions under Section- 11, 12 and 13 .

- The provisions under these Sections should not be altered as the organizations are already under stringent restrictions like utilization of receipts (85% of receipts has to be utilized to get tax exemption), time limit for the utilization of funds (Time limit of 5 years for utilizing fund accumulated), etc. Therefore it is not necessary to put further restriction.

- Further, earlier under Section 11, 75% of the receipts were required to be utilized during the year and the time limit for accumulation of unutilized receipts under Section 11(2) was 10 years. We recommend to revert to this earlier provision which were withdrawn in Finance Act, 2001 and 2002.

- Under Section 11(2), we also recommend that inter-charity donations out of accumulated funds be allowed for greater synergy and facilitating long-term programmes.

Deduction available on the basis of Expenditure:

- **Section- 35(1) (ii), 35 (1) (iii), 35 (1) (iv), 35 (2AA), 35 (2AB), 35ABB, 35AC, 35CCA, Section- 80GGA,**

Observations:

Section- 35(1) (ii), 35 (1) (iii), 35 (1) (iv), 35 (2AA), 35 (2AB), 35ABB, 35AC, 35CCA, Section- 80GGA, are some of the provisions of Income Tax Act, 1961 under which specified expenditures mentioned in the respective provision which are allowed for deduction/ weighted deduction while computing the Income of the organization. These are mainly concerned with developmental works.

Recommendation:

- The expenditures under these Sections should be allowed as it is there in the Act at present.

- The removal of privileges under this would lead to discourage the organizations, especially business organizations which now take it as their corporate social responsibility to spend more in the development activities.

- It is also proposed that the time limit for disposal of the application under Section 35AC be fixed as 6 months and provision for appeal against rejection of the application and disposal of the same in a time bound manner should be incorporated.

Deduction to be made in computing Total Income in respect of certain donations:

- **Section 80 G and Section 12A**

Observation:
Under Section 80G of the Income Tax Act, 1961, donations for charitable purpose by Individuals shall be allowed as deduction while computing the Total Income of the person subject to the fulfillment of certain conditions.

Recommendation:

- The provisions under this Section should not be altered as it encourages individuals to contribute more for social activities.

- Further the provisions of the Act should be considered for simplification as presently Non Profit Organisations have to get separate registration under Section 12A and Section 80G of the Income Tax, 1961. Since both the exemptions are required by a charitable organisation and the same authority is granting the exemptions with same details required at the time of registration it should be considered to allow the registration for both Section 12 A and 80 G at the same time i.e one time registration on the basis of the Aims and Objects of the organization.

- The registration should be in perpetuity without any time restriction and should be made more compliance oriented rather than time oriented.

- There are many grassroot organizations operating in the rural and inaccessible regions of the country not having access to adequate legal expertise which has led to not being registered under Section 12A of the Income Tax Act, 1961 within the stipulated time frame. Therefore, we recommend an Amnesty Scheme be formulated and announced for all NGOs which are not registered under this Section so far.

- Under Section 80G, 100% deduction to the donor may be considered.

Anonymous Donation

- **Section 115BBC**

Observation:
With the inception of Finance Act, 2006, the anonymous donation received by any organization for charitable purpose other than religious cause shall be taxable at Maximum Marginal Rate u/s 115BBC.

Recommendations:

- The anonymous donations should not be made taxable as there are a lot of individuals and organisations who would like to remain anonymous while giving for charity work.

- Also lot of charitable organisations collect donations through charity boxes at public places where it is not possible to trace every individual donors which would also affect the spirit of voluntarism and rising sources.

Appeal to Government:

On the basis of the rationale discussed, it the sincere appeal to government to continue with the existing exemptions and sympathetically consider the simplification of the above mentioned suggestions to allow the voluntary organizations to work towards the betterment of the civil society.

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