INTER face

towards promoting accountability

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Responsible Leadership

Someone has said every person is a leader. We are all leaders and we have our own areas of influence. Along with leadership, also comes responsibility whether we realize it or not. Our one act of irresponsibility at times, can have far reaching implications.

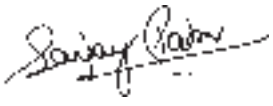
I was very fascinated to read a story recently about King David as recorded in The Bible. King David was a great warrior and had tremendous influence over his people. Once, while he was fighting against the army of Philistine, he was cornered from all sides. As he was leading his army, the fighting intensified. During this time, King David felt very thirsty and there was no water for him to drink. He expressed it to his people that he is feeling thirsty. Three of his very courageous followers broke through the Philistine camp, not caring for their own life, went and brought some water for David.

Suddenly, David realized something and did not drink the water but poured it on the ground. He said, “It is like drinking the blood of my people”.

This incident is very fascinating for me. David was thirsty, but he never ordered anyone to get him some water. He could have always reasoned that he has never asked for the water and since the water has been brought, it would be alright if he drinks it. This act brings out three very key principles of leadership.

> The first, being a leader one should not enjoy comfort at the cost of someone else (Responsibility). In the above case, the three soldiers could have lost their lives to bring water for David.
>
> Secondly, a leader should be true to himself (Honesty). David poured the water on the ground to remind himself that he should be responsible.
>
> Finally, a leader should lead by example by creating confidence in people (Integrity). David poured the water in the presence of people to show them that he has integrity and commitment.

As it is often said, “Leadership is not a one-day thing. It is a constant commitment ....., a habit ....., a daily practice.



Dear Readers,

The 'Independence of Auditors' is an important issue in promoting accountability. In the previous issue of INTER*face, we had shared the 'Revised Guidance Note on Independence of Auditors' issued by the Institute of Chartered Accountants of India (ICAI). We had invited the views and inputs from the readers to begin a discussion process on this important issue.*

In response to this, we have received views expressed by Mr. Suresh Kejriwal, a Chartered Accountant and Mr. D. T. Reji Chandra, an NGO leader. These two articles bring in perspectives from the view point of an auditor as well as an NGO leader. We hope that the views expressed therein evoke your thoughts on this topic.

-Editorial Team

The issue of INTER*face* for the period April-June, 2005 contains the Revised Guidance Note on Independence of Auditors as issued by the Institute of Chartered Accountants of India. The editorial team of INTER*face* is of the view that the independence of auditors is an important issue in promoting accountability and they proposed to start a discussion process on the issue of independence of auditors.

INDEPENDENCE OF AUDITORS: In The Perspective Of NGO Sector

- Suresh Kejriwal

To initiate the discussion on this issue, I would like to share my following views and inputs :

1. **Independence**

1.1. It is not possible to define independence precisely though the rules of professional misconduct dealing with the independence or various legal provisions have been enacted for achieving independence of auditors. However these rules themselves cannot ensure the independence. Independence is a state of mind and the existing rules and legal standards are the mechanisms to ensure independence. Independence is a very subjective matter. One person may be independent in a particular circumstance while another person may not be independent in the similar circumstance.

Independence of auditors has not only to exist in fact but also should appear or to show its existence to all the related persons.

1.2. The Government of India appointed a committee under the Chairmanship of Shri. Naresh Chandra to examine various issues relating to corporate governance. During this process the committee was also requested to examine the measures required to ensure that the auditors actually present a true and fair view of the financial position of a company. The committee felt that the role of independence of statutory auditors is very much important for achieving the independent oversight of the management. The committee therefore also felt the importance of :

a) The role of independent auditors
b) Mechanism to preserve their independence
c) Role of statutory & other regulatory authorities to safeguard this independence.

2. Independence of auditors in the perspective of NGO Sector

2.1. For the purpose of initiating this discussion on independence of auditors, I feel we need to discuss this issue in the perspective of NGO sector.

2.2. I feel the issue of independence of auditors is equally and even much more relevant and necessary for the non-profit sector because it deals with the public funds or the funds which enjoy tax exemption and the funds are received for the purpose of beneficiaries who have no direct control in the governance of NGOs.

2.3. When we go through the existing provisions as regards independence of auditors even for the profit sector, we find a number of issues that still need to be debated and addressed. In the non-profit sector, we find neither the Trust Act nor the Societies Act contains any provision safeguarding the independence of auditors.

2.4. It is, therefore, important to have the understanding about the basic ground realities within this sector so that the present limitations can be understood and appreciated by all the concerned authorities and we can take necessary initiatives to bring the required changes for ensuring Independence of Auditors.

3. Ground Realities

For the purpose of initiating the discussion, I would like to share my experiences about the realities within this sector which includes :

A) The ambiguity as regards the purpose of audit.

B) The additional role which an auditor needs to play.

C) Approach of auditors and the present scale of remuneration.

D) The provision as regards the appointment of auditors.

E) The present role of statutory & regulatory authorities to safeguard the independence of Auditors.

A) <u>The ambiguity as regards the purpose of audit</u> :

- An auditor has to express his opinion on the account within the framework of the legal requirements. In the case of company, an auditor is under a statutory obligation to express his opinion whether the financial report reflects the true & fair view of the financial statement of the organization or not.

- Hence the purpose of audit is very clear in the mind of auditor when he is undertaking any assignment & reporting for the profit sector.

- However, when we compare this situation with the NPO sector we find that :

  > most of the NGOs are registered either under Trust Act or under Societies Act.

  > neither the Trust Act nor the Societies Act provides for any specific requirement or reflections from the auditors while planning their work and framing their audit report.

  > moreover there is no clarity even within the NGO as to what should be the expected requirement or reflection that an auditor needs to make while framing his report.

- Hence in absence of any legal requirement or specific requirement from the management as regards the reflections to be achieved from the financial statements, the auditors in NPO sector find themselves in a very flexible position and they often take advantage of this while drafting their audit report, which in most of the cases have a limited certification of the financial report such as "Reports are in agreement with the books of account".

- On the other hand, whenever an auditor frames an audit report, the general impression is that the audited account is free from all the possible lapses and the auditor has fully certified the financial statement of an NGO.

- Hence, in most of the cases we find that the general expectation from an audit report is not matching with what is contained in the auditor's report. This gap is happening only because of the lack

of clarity within the NGOs and lack of any legal requirement on this issue.

- I, therefore, feel that this is an important issue to be addressed before we start any discussion on independence of auditors. I feel that the role of an auditor is to facilitate and certify the requirement of various laws and stakeholders but there should be clarity on this issue. I therefore feel that the requirements must be clearly spelt out if we really want to achieve any meaningful purpose of the audit.

B) The additional roles, which an auditor needs to play :

- NGOs, in many of the cases deal with programmatic issues and so do not give much focus on the finance functions.

- The present form of education system for financial accounting and also the professional courses like Chartered Accountancy are fully focused towards profit sector.

- Hence always there is a lack of financial expertise in this sector and it is also difficult to avail the financial expertise because of the disadvantage of location and uncertainty due to dependency on grants.

- In the above mentioned situation, whenever an auditor visits an organisation for the purpose of an audit, everybody expects that the auditor would also guide them on various issues.

- Though the task of the auditor is to express his opinion on the financial reports on the basis of examination of the books of account produced before him, due to the above practical situation an auditor needs to provide necessary help in preparation of the financial report on which he has to express his opinion.

- This dual role, though it is practically unavoidable while working with an NGO, certainly has its impact on the independence.

- In addition to the above role, in most of the NGOs the certification of Special Purpose Report is frequently required. The same auditor is being assigned to certify the Special Purpose Report and the General Purpose Report.

- In certain cases it may so happen that the total remuneration for the certification of Special Purpose Report is much more than the remuneration, which an auditor normally gets for the audit of General-Purpose Report.

- The above composition of work within the NGO sector may sometime affect the independence of auditors while certifying the General Purpose Report.

C) Approach of auditors and the present scale of fees :

- Most of the auditors feel that volunteerism is the basis of this sector and hence this sector offers no scope for professional careers.
- Moreover the audit fees are also at such a low level that it is not practicable to engage the quality time for conducting the audit.
- All the above issues may also have its impact on the quality of audit report and the Independence of Auditors.

D) The provision as regards the appointment of auditors :

- The profession of auditor is quite different & unique. The doctor functions for getting the patient cured or the duty of an advocate is to work for his client for his interest but an auditor has to make a report independently on the financial statement, which may be against the wishes of his client.
- Hence in the case of an auditor it is very important to see who has the authority to appoint and remove the auditor and what are the safeguards being provided under the various applicable laws so that the independence of auditors is not being affected because of his methodology of appointment.
- However when we go through this issue of appointment in the NPO sector we find :

> In the case of NPOs registered under Trust Act, trustees are the persons who can appoint and remove an auditor and there is no mechanism as in the case of company where auditors are appointed by a person, who is not directly involved in the management.

> Similarly in most of the Societies Acts there no specific provision as regards who can appoint an auditor and in most of that cases auditors are being appointed by the governing body who are responsible for the management of the organization.

- Hence we find there is no separation of appointing authority of an auditor and the authority who are involved in the management of the organisation.

E) Role of statutory or regulatory authorities to safeguard this independence :

- In the case of profit sector and mainly in the case of companies, the auditors are appointed by shareholders and not by the directors. The Companies Act, 1956 also specifically provides that where the independence of auditors may be affected like ***Section 226 of the Companies Act, 1956 that prohibits the***

appointment of a Chartered Accountant as auditor of a company if he is :

(i) an officer or employee of the company;

(ii) a partner of a person in the employment of an officer or of an employee of the company;

(iii) a person who is indebted to the company for an amount exceeding Rs.1,000;

(iv) a person who has given any guarantee or provided any security in connection with the indebtedness of any third person to the company for an amount exceeding Rs.1,000.

A person who is disqualified from becoming auditor of any body, corporate under the above rules is also disqualified from appointment as auditor of such body's subsidiary, co-subsidiary or holding company.

Section 314 makes separate provision for the case where an auditor of a company (whether public or private) is a relative of a director, or manager of a private company of which the director of the company is a director or member. In the case of such a person he may be appointed as auditor of a company only if such appointment is approved with the consent of the company in general meeting obtained by a special resolution.

- However when we go through all the existing Trust Act and the Societies Registration Act we find that none of the Acts contains any provision, which concerns about the safeguarding the independence of auditors or providing that a person cannot be appointed as auditor if there is a case where the independence of auditor may be affected.

CONCLUSION

I feel all the above issues are the basic issues on which there is a need for a debate.

I also feel that there is also need to have a separate & specific guideline on independence of auditors specifically for NGO sector keeping in view the ground realities, practical situation and the existing position of finance function within an NGO.

(The author is a practising Chartered Accountant. He renders services to Development Agencies and other Voluntary Organisations.)

A Reflection on the Independence of Auditors

- D. T. Reji Chandra

When FMSF asked me to write a brief reflection on the independence of auditors, I wondered if I am qualified to do that. I then decided I could write from my experience with the auditors; and not necessarily comment on each topic of the recently revised guidance note of the Institute of Chartered Accountants of India on the independence of auditors. "From your experience", sounded like a well-defined qualification because I have been associated (for that matter all of us) with auditors for many years. In addition, like most of us, I also know many auditors as friends and relatives, which I consider an added qualification. Again, one of them is not auditing the organisation I am involved in and, to me, this is my contribution towards safeguarding the independence of auditors. Considering all these as qualifications, I decided to write my reflection on the independence of auditors.

The Institute of Chartered Accountants of India has recently come out with the Revised Guidance Note on the Independence of Auditors. While going through it, I found a list of what applies to the auditors and what to those organisations who appoint their auditors. But most of the guidelines are to be upheld by the auditors themselves as part of their professional competence and ethical standards rather than given or protected by someone else. It sounds like part of the value system that auditors should inherit from their professional formation process. In a way, auditors are independent in deciding if they want to be independent or not; and of course, with its consequences to face when deciding either way.

I found almost all the guidelines as expressions of the inherent values of auditing profession translated in practical terms. In fact, most of these inherent values are applicable to many other professions too. These are basic values like being straightforward, honest, sincere, and so on. The guidance defines independence, explains the threat to independence, and also a set of safeguards.

When I think of auditors and their independence, from a layperson's perspective, I always remember a few experiences my auditor friends shared with me.

I was having dinner with some of my friends recently and one of them was an auditor. When auditors are around you always have auditor jokes and or client jokes. This auditor friend was working in a well-known auditing firm that was auditing some five star hotels in the state. In the beginning of his career, he was asked to do some stock verification. In the process he landed in the bar of the hotel. He was asked to check the bar, where thousands of bottles were neatly stalked in the shelf. Sensing the 'so much and how to do this' feeling in the face of the young auditor, the bar staff suggested to count rows and then calculate. The staff also said that other auditors did the same during the previous years.Our auditor friend wanted to be independent in deciding how to count liquor bottles. He started pulling out a few bottles from the back of the row to find many of them empty. The bar staff never expected that the auditor would be independent in deciding the way he wanted to count.

His teaching for us was that auditors have to be independent in their way of counting. If some one suggests to count from the front, better do so from the back or at least from the middle. Or if they suggest to start from the left, then it is better to start from the right or the middle.

Another auditor friend was narrating one of his experiences. This is a social setting. It was a drought relief project. There was provision for six bore wells as part of the programme in the village. The bills and reports said that the bore wells were dug. All the procedures and documents required to satisfy an auditor were there. This auditor friend, being independent in his approach, was not satisfied with the documentary evidence and wanted to see the bore wells. He visited the field, and of course, finally saw the wells. Though he saw all the six wells, he was not satisfied, because five bore wells he saw were in a private farm and the other one was in the director's residence.

I am aware that every auditor will have many such experiences wherein they redefine their independence with interesting stories about their clients. The question of independence becomes more valid in client-auditor relationship, because each client would also have many such interesting stories about their independence and their auditors.

My experience with auditors is limited to social/development sector. In this sector, with all our belief in professionalism and accountability issues, we should agree that there is considerable difference in purpose, approach, and practice from the commercial or profit sector. We cannot plant everything that is made for the profit sector. At the same time questions on relevance are not excuses to reject mainstream guidelines and systems that help improve efficiency, effectiveness, and accountability.

Is it an issue related to the independence of the auditor, if the auditor decides to verify beyond what is in the document?

Is it possible for these auditor friends to witness, as bore wells or liquor bottles, some social changes that are not visible? Where does an auditor's independence start and end? If counting is not possible, then how does one verify invisible effects? What are the mechanisms and tools to be used in such social settings?

Where does independence of auditors meet the organisation's independence to compliment effectiveness and accountability? In a social sector, this needs to be defined as context specific. It is definitely more than a process of counting and a set of guidelines.

Auditors are amphibians. The amphibians can and have to survive both in water and land. Although auditors are appointed by the organisation, they need to be independent to judge, guide and even regulate. They are appointed to work; but empowered to dictate. In the social sector, an auditor should be like the conscience of the organisation, always reminding and guiding on how to do and proceed to ensure accountability to stakeholders and comply with statutory regulations. Ideally, it is a well balanced dual role.

To me, the independence of auditors is not something that comes from outside or given by someone; rather it is a professional trait that emerges from within. In fact, it is the expression of the inherent values of auditing profession that all auditors should have inherited as part of the professional formation and ongoing practice. I see independence not as a set of guidelines, though such guidelines expressed in practical terms are necessary, but more as a value and culture attached to a profession.

I always tell my accounts staff in my office that they are like amphibians capable of surviving in land and water. If they object to it, then I say they are like a bat that though gives birth to young ones as mammal, can also fly like a bird. In a lighter mood, I also tell them that they often have the habit of doing things upside down like a bat hanging and being nocturnal. But while defining roles, accountants are to be considered as masters and also servants — a special breed of staff. At times you should act like masters using your power and at times you should be obedient servants to support the programme team. But the success of accounts personnel, I continue to remind, depends on their capacity to know when to rule and when to serve. This, to some extent, also applies to the auditors. This is more so in the context of social/development sector.

Auditors are facilitators and also regulators. They have to help and guide and at the same time point out deviations that needs to be corrected. In this sense, auditors are facilitators and regulators. They are amphibians. They play the same master and servant role. So to me, the

independence of auditors, from a value or social perspective, lies in this understanding.

What is the independence of auditors? It is the expression of inherent values. This is nothing but acquiring the knowledge and skills to guide and also the will and power to regulate; and of course, as the classical prayer goes, to have the wisdom of knowing when to guide and when to regulate.

(The author is the Director of Palmyrah Workers Development Society (PWDS), based in Tamilnadu)

In lighter vein…

A person asked an auditor, "Every year you come to audit our organization. I have noticed that you ask me the same questions every year. Why is it so?" The auditor replied, "I am checking whether you give the same answers every year."

The Foreign Contribution (Management and Control) Bill, 2005 and The Foreign Contribution (Regulation) Act, 1976

- A Comparison

Since last decade the flow of foreign funds has tremendously increased in India. As per the figures reported by Ministry of Home affairs, the amount of foreign contribution received in India has increased from 1865 crores in 1993-94 to 5000 crores in 2002-03. This is one of the major factors that has highlighted the presence and role of voluntary sector in India and the fact has been well recognized by the Government of India.

At the same time, the Ministry of Home affairs is concerned about the regulation and management of foreign funds. At present, the flow of foreign contribution is regulated by Foreign Contribution (Regulation) Act, 1976 (FCRA). As FCRA was never designed for NPOs, its practical implementation created various problems. In the words of Hon'ble Minister of Home Affairs, "FCRA has been in existence for nearly 29 years. During this period, certain shortcomings and lacunae have been noticed in the implementation of the Act. We have received suggestions from various quarters for improvement in the implementation of the Act, which have been duly considered and we are in the process of replacing the FCRA with a new law which would take care of concerns and interest of various stakeholders." With this, Government has indicated its intention to replace FCRA with a new act.

Now, Government has introduced a new bill namely Foreign Contribution (Management and Control) Bill, 2005. This bill is eventually expected to replace FCRA. At present, it is in draft stage and has been uploaded in the website of Ministry of Home Affairs for public response. Then, it will be sent to various stakeholders before presenting to Parliament.

1. Object of the Act

The object of the two acts has changed. The present FCRA was aimed to ensure that foreign funds do not affect the sovereignty and integrity of the country. However, new FCMC shifts the focus of the act to curb the use of foreign funds for anti-national activities. Although the rationale articulated earlier for bringing a new act was to facilitate and improve the financial management of NPOs who don't even report to the FCRA department, the core object of FCMC seems to ultimately prohibit anti-national activities.

Some Features of FCMC Bill….

- Re-registration under the proposed act even for already registered associations.
- Registration valid for five years.
- Fees to be paid with application for registration and appeals.
- Administration expenses restricted upto 30% of F.C.
- Manner and procedures for assets disposal.
- Interest earned on FC shall be FC.

2. Change in Registration Authority

Under FCRA, any organisation having a definite cultural, social, educational, religious or economic programme is eligible to accept foreign contribution after getting itself registered with the ***Central Government***. The FCRA department has centralized office at Delhi. This certain times created lot of problems for the NPOs situated in far off places.

The new FCMC changes the registration authority from Central Government to 'Registering Authority'. It seems that Government is interested in decentralization of registration once FCMC comes into force. The application for registration and prior permission shall then be submitted to the Registering Authority.

3. Registration Procedures

Under the new FCMC, any association already registered with the Central Government under section 6 of FCRA, will also have to obtain a certificate of registration under FCMC within 2 years of the commencement of the Act.

The registration granted under FCRA is generally permanent in nature unless Central Government revokes it. However, FCMC provides that the certificate of registration granted by the Registration Authority shall be valid for a period of five years.

4. Renewal of registration

As already stated that FCMC registration will be given for a period of five years. The FCMC registration will have to be renewed every five years. The renewal

process can be started anytime after three years of registration are over.

5. Prior-permission

FCRA allowed the organisation not registered under the Act to obtain prior permission of the Central Government to receive foreign funds. The provision of prior permission has been retained in FCMC and provides that if the organisation is not registered under the Act, it can obtain prior permission of the Registering Authority to receive foreign funds. Presently under FCRA, there is a limit of 90 days (or 120 days in case of delay) for processing of application by Central Government. However, the new FCMC doesn't mention any time limit for processing of application.

Also under FCMC, the Central Government may by notification in the Official Gazette, specify certain persons already registered under section 11 (1) of FCMC to again obtain prior permission before accepting foreign contribution. It can also specify the areas, purposes and sources from which the foreign contribution can be accepted and utilized with the prior permission of Central Government.

6. Fees to be deposited for registration, appeal etc.

FCMC Bill also stipulates payment of fees while making application for regular registration under section 11 (1), prior permission under section 11 (2), appeal against refusal of registration or cancellation of FCMC registration and renewal of registration.

The amount of the fee has not been stated in FCMC but is expected to be prescribed by the Govt.

7. Additional conditions for grant of registration and prior permission

The FCRA does not explicitly provide the grounds on which the registration and prior permission can be refused by the Central Government. However, FCMC states that the Registering Authority will make enquiries as it may deem fit and satisfy itself that the person making application -

(i) is not fictitious or benami;

(ii) has undertaken meaningful activity in its chosen field for the benefit of the people;

(iii) has prepared a meaningful project for the benefit of the people;

(iv) has not indulged in activities aimed at conversion through inducement or force from one religious faith to another;

(v) has not created communal tension or disharmony;

(vi) has not been found guilty of diversion or mis-utilisation of its funds or

(vii) is not engaged or likely to engage to propagate sedition or advocate violent methods to achieve its ends;

(viii) is not likely to use the foreign contribution for personal use or divert it for undesirable purposes;

(ix) has not contravened any of the provisions of this Act;

(x) his certificate has neither been suspended nor cancelled earlier;

(xi) has not been prohibited earlier from accepting foreign contribution;

In case the person being an individual, such individual has neither been convicted under any law for the time being in force nor any prosecution for any offence is pending against him.

In case of the person being other than an individual, any of its directors or office bearers has neither been convicted under any law for the time being in force nor any prosecution for any offence is pending against him;

The Registering Authority will also satisfy itself that the acceptance of foreign contribution by the person is not likely to affect prejudicially –

(i) the sovereignty and integrity of India; or

(ii) the public interest; or

(iii) freedom or fairness of election to any Legislature; or

(iv) friendly relation with any foreign State; or

(v) harmony between religious, racial, social, linguistic, regional groups, castes or communities,

In addition, if the application for registration or prior permission is not in prescribed format or is incomplete, the Registration Authority can reject the application.

FCMC also stipulates that in case Registering Authority refuses registration or prior permission, it shall record the reasons for such refusal and share a copy of the same with the applicant.

8. Prohibition to receive foreign contribution by certain persons/ organisations

Under FCRA, candidate for election; correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper; judge, Government servant or employee of any corporation, member of any Legislature and the political parties are debarred from receiving foreign funds. However, the organizations of political nature were allowed to receive foreign funds with prior permission of the Central Government. Under FCMC, the list of the organizations debarred from receiving

foreign contribution has been broadened to include the organizations of political nature; association or company engaged in production or broadcast of audio news or audio visual news or current affairs programmes through any electronic media and correspondent or editor of such association or company. Hence, the organizations of political nature are also debarred from receiving foreign contribution under FCMC.

9. Appeal against refusal to grant registration or prior permission

Under FCRA, there is no provision for making an appeal against the decision of Central Government to refuse the grant of registration or prior permission. FCMC provides that any person aggrieved by the decision of the Registering Authority refusing registration or prior permission may within thirty days appeal to the Central Government. However, the decision of Central Government on such appeal shall be final.

10. Interest earned on Foreign Contribution

FCR Act and Rules are silent for treatment of interest earned on foreign contribution. Indeed, this has always been a point of discussion whether the interest earned on foreign contribution received is a foreign contribution or not. However on July 26th, 2001, Form FC-3 was revised and it required the reporting of interest earned on foreign contribution funds. This helped clear the confusion to a large extent but still some experts were of a different view. This confusion has been clarified by FCMC. In the definition of term 'Foreign Contribution' under section 2 (f), it has been specifically provided that interest earned on foreign contribution shall be treated as foreign contribution.

11. Any other income derived from Foreign Contribution or interest earned thereon.

Similarly, there is no provision under the FCRA which clarifies whether the income earned from foreign contribution shall be treated as foreign contribution or not. Under FCMC, the definition of 'Foreign Contribution' clearly provides that income earned from foreign contribution or interest earned thereon shall also be treated as foreign contribution. This would mean that income earned from training centers, shops, sale of assets acquired from foreign funds or interest earned on foreign funds shall also be treated as foreign contribution.

12. Restriction to utilise foreign contribution for administrative purposes

FCRA basically deals with receipt of foreign funds. It does not provide any specific provision for utilization of foreign funds although certain provisions of the Act and undertaking in Form FC 3 provide that the foreign funds should be utilized for the purpose for which the organisation was established. FCMC specifically provides under section 8 (1) that the foreign funds should be utilized for the purposes for

which the contribution has been received. Also a new provision has been added to provide that not more than 30% of the foreign contribution shall be utilized for meeting the administration expenses of the organisation. The manner in which administration expenses will be calculated shall be prescribed by the Central Government.

13. Disposal of assets created out of foreign contribution

FCRA is also silent about the disposal/sale of assets created out of foreign contribution. Under FCMC, it has been provided that the Central Government shall specify the assets which can be disposed off and the manner in which it can be disposed off.

However, under the current practices, the sale proceeds of assets created from foreign contribution are treated as foreign contribution.

14. Maintenance of Bank Accounts

FCRA requires that the organisation should receive the foreign contribution in one bank account with any bank. However, the act is silent about the utilisation of foreign contribution i.e. it is not clear whether the foreign contribution received in one designated bank account can subsequently be transferred to various project accounts for utilisation. Some experts are of the opinion that opening of various accounts at different places for utilisation of funds is justifiable. However, others hold the opinion that foreign contribution should be received, held and spent from one designated bank account only. The above controversy has been resolved by FCMC bill by making a provision under section 17. It states that the organisation can receive foreign contribution in one bank account but it can open more than one bank account for utilisation of foreign contribution. Only they need to make sure that these bank accounts are used exclusively for FCRA funds.

Another addition in FCMC is that the bank account for receipt of foreign contribution should be with a scheduled bank or its branches only. Accordingly if the organisation has other accounts for spending of foreign contribution, the same should be with any scheduled bank or its branches.

15. Procedure for notifying an organisation to be political nature.

Under FCRA, the "organisation of a political nature, not being a political party" has been defined as such organisation as the Central Government may specify by an order published in the Official Gazette, having regard to the activities of the organisation or the ideology propagated by the organisation or the programme of the organisation or the association of the organisation with the activities of any political party. However, FCRA doesn't provide any procedure for the Central Government to specify an organisation to be of political nature.

FCMC also lays down the above definition for organizations of a political nature. However, it also provides the following procedure for notifying an organisation to be of political nature:

1) Before notifying an organisation to be of political nature, the Central Government shall give a notice in writing to the organisation informing the grounds on which it is proposed to be notified.

2) The organisation may within 30 days from the date of the notice, make a representation to the Central Government giving reasons for not specifying such organisation to be of political nature. The Government can provide additional time provided it is satisfied that the organisation has genuine reasons for delay.

3) The Central Government may send the representation to any authority to report on such representation, if it considers necessary.

4) After consideration of the representation and the report of the authority, Central Government will specify such organisation to be of political nature.

16. Prohibition to transfer foreign contribution to other persons

In FCR Act and Rules, there are certain provisions which indicate that the foreign contribution can only be transferred to a person who is having registration or prior permission under the act. FCMC specifically prohibits a person who is either registered or granted prior permission and receives any foreign contribution, to transfer such foreign contribution to any other person unless such other person is also either registered or granted prior permission.

17. Cancellation and Suspension of Certificate

There is no explicit provision in FCRA which provides for circumstances under which certificate of registration can be cancelled or suspended. However, an organization can be put on the list of prior-permission or prohibited from accepting foreign contribution. Of course, in practice this has the same effect as cancellation of FCRA registration. FCMC Bill introduces a proper provision for cancellation of FCMC registration. It provides that certificate of registration will be cancelled if:

a) the holder of the certificate has made a statement in the application for the grant of registration or renewal thereof, which is incorrect or false; or

(b) the holder of the certificate has violated any of the terms and conditions of the certificate or renewal thereof; or

(c) in the opinion of the Registering Authority, it is necessary in the public interest to cancel the certificate; or

(d) the holder of certificate has violated any of the provisions of this Act or rules or order made there under.

Once the FCMC registration is cancelled, the organisation or the person will be eligiblefor registration only after a period of three years. The foreign contribution in the custody of such person whose certificate has been cancelled, will come in the custody of such authority as may be prescribed. Such authority will manage the funds.

As the process of cancellation may take some time, FCMC provides for suspension of FCMC registration meanwhile. This suspension can be for a maximum period of 90 days. During this period, the organization can't receive any foreign contribution.

Purnima Jolly, FMSF

Accounting Standards of ICAI

The Technical Guide on Accounting and Auditing in Not-for-Profit Organisations (NPOs) brought out by The Institute of Chartered Accountants of India (ICAI) deals with suggesting the accounting and financial reporting framework for NPO sector for presentation of true and fair view of the state of affairs and the results of the financial statements. The Guide also discusses the salient feature and principal requirements of various Accounting Standards (AS).

In the previous issue we focused on AS-5 – . "Net Profit or Loss for the Period, Prior Period Items and Changes in Accounting Policies. Through this issue we deal with AS-6 " Depreciation Accounting" and highlight some of the relevant aspects relating to NPOs.

Depreciation Accounting (AS-6)

Before we look into the detail of what this accounting standard on "Depreciation Accounting" is all about, it will be helpful if we first understand as to what we mean by the term "Depreciation".

Organisations may be of varying sizes, small, medium or big, depending upon the nature of their work.

Whatever may be the size of an organization, it is bound to acquire or possess some fixed assets for performing its work. It may be in the form of an equipment or a furniture or a building.

Whatever may be the fixed asset an organization possesses, it needs to be understood that they are tangible, relatively long lived items.

The important aspect is that the benefit of these assets are available not only in the accounting period in which it has been acquired and the cost is incurred but over several accounting periods. For example, current assets such as short term deposits, provide benefits to the organization by their

high liquidity into cash. In the case of fixed assets, value addition arises by facilitating the organisation's work and functions.

For example, if an organization acquires a vehicle (jeep) for undertaking field visits, the benefit it derives is in terms of effective reduction in the travel time, comfort in reaching the field area etc.

Thus the benefit derived from such assets are more indirect rather than direct.

All equipments have limited life. In accounting, we are generally concerned with the useful life of the assets. Useful life is the period for which a fixed asset could be economically used. This implies that the benefit from the fixed assets will flow to the organization throughout its useful life.

Another important aspect is that the initial cost of purchase may be high, but the benfits accrue over the useful life of the asset.

Fixed assets are usually recorded on the basis of the original cost of acquisition. However, since the assets have limited life, the cost will be expiring with the expiry of the life. Thus, valuation of the asset is reduced proportionate to the expired life of the asset. Such expired cost is referred to as the depreciation in accounting.

Let us look into this with an example.

An organization purchases an equipment for Rs. 5,000 having 5 year life and no salvage value, is used in the course of its activities.

If we assume that the cost of the equipment expires in equal proportion, then we find that it comes to Rs. 1,000 per annum for 5 years.

This means that one-fifth of the cost of the equipment expires every year. This portion of the cost that expires every year is called Depreciation.

In short, the process of equal distribution of the cost of an asset over its useful life is depreciation.

Now that we have seen the meaning of Depreciation, we can look into what the Accounting Standard 6 says about "Depreciation Accounting" and the principal requirements there under.

Principal Requirements :

1. Systematic Allocation :

One of the principal requirements of AS-6 is that the amount of the asset to be depreciated should be allocated on a systematic basis to each accounting year. This is to be done during the useful life of

the asset. "Useful life" generally implies the period over which the asset is expected to be used by the organization.

It needs to be noted that the asset which is to be depreciated and which is expected to be used during more than one accounting period, should have been held by the organization for performing its activities and not for the purpose of sale in the ordinary course of its functioning.

2. Consistency in the Method of Depreciation :

There are various methods of providing depreciation such as Straight Line Method (wherein a fixed amount is charged every year from the cost of the asset as depreciation amount), Written Down Value Method (wherein the amount of depreciation is reduced from the written down value of the asset and is continued every year from the reduced value of the asset) etc.

For example, an organization purchases an asset at a cost of Rs. 1,000. It decides to depreciate it at the rate of 10% per annum. It is expected that the asset will last 10 years and will have no salvage at that time.

Under Straight Line Method :

The annual depreciation comes to Rs. 100 per annum. Thus, the accumulated depreciation in the 10 year period will come to Rs. 1,000 increasing annually at a uniform rate becoming equal to the cost of the asset at the end of the useful life..

Under Written Down Value Method :

As per this method, the depreciation during the first year, will be Rs.100, in the second year it will be Rs. 90 (i.e., 10% on Rs. 900 being the reduced value) and in the third year it will be Rs.81 (10% on Rs.810) and so on.

Whatever may be the method of depreciation followed, the Accounting Standard 6 requires that it is followed consistently from period to period by the organization.

3. Change in the Method of Providing Depreciation :

Though the AS-6 requires consistency in the method of providing depreciation, it also allows change from one method to another. Change should be made only if the new method is required :

a. by the statute ;
b. for compliance with an accounting standard ; or
c. if it is considered to result in a more appropriate presentation of the financial reports of the organisation.

It needs to be noted that when a change in the method of depreciation is made, the

depreciation should be recalculated in accordance with the new method from the date the asset has come into use. Further, if such a change results in a deficit or surplus while recomputing the depreciation as per new method, the same should be either charged or credited to the Income and Expenditure Account of the organization as the case may be.

However, such a change, when made, needs to be disclosed in the financial statement of the organization so that the impact of the same is evident to the user of the respective financial statement.

4. Estimating the useful life of the asset :

We already saw that the useful life of the asset is the period for which a fixed asset could be economically used.

As per AS-6, this useful life is to be estimated on considering the following factors :

a. expected physical wear and tear;

b. obsolescence ;

c. legal or other limits on the use of the asset.

The determination of the useful life is a matter of estimation. The useful life of the depreciable asset may at times be shorter than its physical life. In most cases, the basis for determining the useful life may be laid down by the statute governing the organization. In such a case, the organization may charge a higher depreciation if it estimates that the useful life of the asset is shorter than that envisaged under the provisions of the relevant statute.

If the management of the organization estimates that the actual useful life of the asset is longer than that envisaged under the statute, then it should provide depreciation over the useful life of the asset as envisaged under the statute.

For example, if an organization purchases a Jeep and estimates its actual useful life to be 5 years while as per statute it is envisaged to be 8 years. In such an instance, the organization may charge a higher rate of depreciation.

In case if the organization estimates the useful life of the asset to be 5 years while as per statute it is envisaged to be 3 years, then the organization has to provide depreciation over the useful life as envisaged by the statute i.e., for 3 years.

5. Revision of the Useful Life of the asset :

As per AS-6, the useful life of the asset may be reviewed periodically. If such a review results in the revision in the useful life, it provides that the remaining depreciable amount should be charged over the revised remaining useful life. Here, the

remaining depreciable amount means the written down value minus the estimated residual value.

6. Addition or Extension made to the asset :

It is quite possible, that during the course of the useful life of an asset, an addition or extension to it will be made especially if the asset happens to be a building.

As per AS-6, if such addition or extension becomes the integral part of the existing asset then it needs to be depreciated over the remaining useful life of that asset. The rate of depreciation applied on such addition / extension may be the same that is provided to the existing asset.

In case the addition or extension retains its separate identity and is capable of being used even if the existing asset is disposed of, the depreciation should be made independently on the basis of its estimated useful life.

7. Revaluation or Change of the historical cost of the Asset :

Where the cost of a depreciable asset has undergone a change or is revalued, as per AS-6, depreciation should be provided on the revised unamortized depreciable amount over its remaining useful life.

However, AS-6 also requires adequate disclosure in the financial statement of the organizations in the following instances :

a. when a depreciable asset is sold, scrapped, retired etc., the net surplus or deficiency, if it is considerable.

b. the historical cost or the revalued amount of the depreciable asset.

c. the total depreciation for each of assets during the specific period as well as the accumulated depreciation should be disclosed.

d.the depreciation methods as well as the depreciation rates or the useful lives of the assets (if they are different from the rates prescribed by the law governing the organization) should also be disclosed.

In case of donated fixed assets, no depreciation is required to be provided since the assets are required to be recorded at nominal value.

As seen earlier, the objective of providing depreciation is to allocate the cost of the fixed asset over its useful life so that the periodic surplus or deficit of the organisation reflects the use of the fixed asset.

Adhering to the requirements of AS-6 will enable an organization to prepare its financial reports in a more meaningful manner so that it reflects the net worth of the assets it possesses as well as the true state of affairs of the financial transactions.

S.P.Selvi, FMSF

Societies Registration Act,1860.

Section 6 of the Societies Registration Act 1860, states that *"Every Society registered under this Act may sue or be sued in the name of the President, Chairman or principal secretary, or trustees, as shall be determined by the rules and regulations of the Society and in default of such determination, in the name of such person as shall be appointed by the Governing Body of the occasion:*

Provided that it shall be competent for any person having a claim or demand against the Society to sue the President or Chairman, or principal secretary or the trustees thereof , if on application to the governing body some other officer or person be not nominated to be the defendant."

Suits By And Against Societies

Section 6 lays down the procedure in which the society may sue or be sued.

- The society can be sued in name of the President, Chairman or the principal secretary of the Society which is given as per the rules and regulations of the society.
- In case the rules and regulations do not provide for any person in whose name the society may sue or be sued, in that case the Governing Body may appoint a person for the same.
- Similarly any person may sue the society through its President, Chairman or the principal secretary, if upon an application to the Governing Body some other officer or person be not nominated to be the defendant.

Legal status of the Society: In order to acquire a judicial status, a society has to be registered under the Societies Registration Act 1860. Thereafter it enjoys the status of a separate legal entity apart from its members constituting the same. After registration and acquiring a legal status it can enter into a valid contract which may be enforced by or against it. Similarly the legal status also makes the society capable of suing and be sued.

In the case of *Radhaswamy Satsang Sabha, Dayalbagh vs. Hans Kumar*

Kishan Chand, The Madhya Pradesh High Court held that "the law only requires registration under this Act, wherever obtaining and does not require registration in the state of Madhya Pradesh only before benefit of sub-clause could be claimed". Therefore according to the judgment it can be said that to claim the benefit of the Societies Registration Act, 1860, the law requires that the Society should be registered under the Societies Registration Act 1860 and not specifically in the State in which the suit is being filed.

Also *Section 5* of the Act says that "*The property, movable or immovable, belonging to a society registered under this Act, if not vested in trustees, shall be deemed to be vested, for the time being, in the governing body of such society, and in all proceedings, civil and criminal, may be described as the property of the governing body of such society by their proper title"*. Thus it is clearly stated in Section 5 that the property which belongs to a society whether movable or immovable, if it is not specifically vested in trustees shall be deemed to be vested in the governing body of the society. According to this, in all proceedings, whether criminal or civil, the property may be described as the property of the governing body of such society by their proper title.

In case of *Harinarayan Shaw Vs. Gobardhandas Shroff*, it was held that in case of a disputed property where the property of the society was vested in the trustees before registration becomes, as and from the date of the registration of the Society, a property belonging to the society and be deemed to be the property of the Society.

After registration of a society, there is no change of ownership, it is only that the society just changes from an unregistered society to a registered society. By registration, an unregistered society acquires a status only to make it convenient for carrying out the purposes for which the unregistered society has been established. Certain acts which cannot be done as an unregistered society can be done by the society after registration.

If a society has adopted a shorter and convenient name along with its registered name, i.e. by a proper method given to itself or assumed a name for the purpose of suing or being sued, a suit in that name must be regarded as a suit by that legal entity, provided of course that it has been instituted by a person empowered to do so.

The members of a society enjoy a separate legal entity from the society and therefore a personal liability cannot be imposed on the members constituting the society. The principles which govern the relations of members of Companies which are incorporated under the Indian Companies Act, 1956 are also the principles which govern the Societies which are registered under the Societies Registration Act, 1860. *(A.S. Krishnan Vs. M. Sundaram)*

These principles are

1. **A court will not interfere with the internal management of**

the companies acting within their powers and will have no jurisdiction to do so.

2. **In order to redress a wrong done to a company or to recover money or damage alleged to be due to a company the action should *prima-facie* be brought by the company itself.**

Where there are no specific provisions in the Rules and Regulations of the Society as to who would represent the Society in the legal proceedings for and against the society, the second part of Section 6 authorizes the Governing Body to appoint a person who would represent the society. It is competent for the Governing Body, i.e. the managing Committee to delegate such power to office bearers, or trustees or any one of them.

Section 7 of the Societies Registration Act, 1860 deals with: Suits not to abate *"No suit or proceeding in any Civil Court shall abate or discontinue by reason of the person, by or against whom such suit or proceedings shall have been brought or continued, dying or ceasing to fill the character in the name whereof he shall have sued or been sued but the same suit or proceeding shall be continued in the name of or against the successor of such person."*

Therefore according to the section, on death or cessation of the office bearer of a society in whose name the suit or proceeding have been brought, will not result in discontinuation of such proceeding.

The person who has been further nominated by the Governing Body to take over the position of the person who has left the position either due to death or ceased to be the office bearer and henceforth will continue the proceedings. The person who takes over may either be the legal heir or representative or successor or person assigned by the Governing Body.

Section 8 of the Societies Registration Act 1860, deals with enforcement of judgment against a society. The Section 8 says that *"If a judgment shall be recorded against the person or officer named on behalf of the society, such judgment shall not be put in force against the property, movable or immovable, or against the property of the society.*

The application for execution shall set forth the judgment, the fact of the party against whom it shall have been recovered having sued or having been sued, as the case may be ,on behalf of the society only, and shall require to have the judgment enforced against the property of the society "

This section specifically provides protection to the office bearers of a society stating that any judgment which has been passed against any person or officer of a society representing the society, such a judgment cannot be enforced against the personal property of such person or officer of the society. In various cases like *Board of Trustees,Unani Tibia College Vs State of Delhi (Supreme Court)* and

various High Court cases like *Radha Soami Satsung Sabha Vs.Hans Kumar, A.S.Krishnan Vs.M.Sundaram,* a view has been taken that Sec 6 of the Act is an enabling provision and a registered society under the act can sue and be sued in its own name and is therefore a distinct legal entity from its members. Since a society is a distinct legal entity and the property of a society is not the personal property of a member or office bearer of a society, thus by virtue of this, the property does not vest in a member.

Similarly tax imposed on a society is not tax imposed on its members and is thus not a personal liability of its members.

Section 10 of the Societies Registration Act 1860 deals with the members liable to be sued as strangers. It says that, *"Any member who may be in arrear of a subscription which according to the rules of the society he is bound to pay, or who shall possess himself or detain any property of the society in a manner or for a time contrary to such rules, or shall injure or destroy any property of the society, may be sued for such arrear or for the damage accruing from such detention, injury, or destruction of property in the manner hereinbefore provided."*

Recovery of successful defendant of costs adjudged. *But if the defendant shall be successful in any suit or proceeding brought against him at the instance of the society, and shall be adjudged to recover his costs, he may elect to proceed to recover the same from the officer in whose name the suit shall be brought, or from the society, and in the later case shall have process against the property of the society in the manner above described"*

A member may be sued by a society if his subscriptions are in arrear and if he has possessed or detained any property belonging to society against any rules or if he has injured or destroyed any property which belongs to such a society.

If such an action against any member so sued fails and he is adjudged to recover his costs, then that member may elect to recover such costs from the officer in whose name the proceedings were taken or from the society. In case of the society the member is entitled to have process against the property of the society.

(To be continued…)

Pooja Bagga, FMSF

Employees' Provident Fund and Miscelleneous Provisions Act, 1952.

In the previous issue we looked at some of the issues related to the applicability of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 to NGOs. In this issue we deal with the rate of contribution, duties of the employer and the important dates under the above Act. There are following three schemes under the Act, namely

a) Employees' Provident Fund Scheme, 1952
b) Employees' Pension Scheme, 1995
c) Employes Deposit Linked Insurance Scheme, 1976

Let us now look into the three schemes in little more detail:

(a) and (b) : Contribution under the above Employees Provident Fund

The Rate of Contribution , Duties of the Employers and theImportant Dates

The rate of contribution under Different Schemes at a Glance

Scheme Name	Rate of contribution as a percentage of basic pay DA , Cash value of food concession and retaining allowance , if any
a. Employees' Provident Fund Scheme, 1952	◆ Employer: 1.67% (10% less 8.33% in case where the employee's contribution is 10%) and 3.67% (12% less 8.33% in case is 12% the employee's contribution ◆ Employee:10% to 12% ◆ Government: None
b. Employees' Pension Scheme (EPS), 1995	◆ Employer: 8.33% ◆ Employee: None ◆ Government: 1.16%
c. Employees' Deposit Linked Insurance Scheme (EDLI), 1976	◆ Employer: 0.5% ◆ Employees: None ◆ Government: None

Scheme, 1952 and Employees Pension Scheme, 1995

Contribution is payable monthly by the employer and the employee both at the equal rates. The employer is required to deposit both the share of contribution . The employer is authorized to recover the employees share from the salary of the employee.

There are two rates of **Provident fund** contribution by an employee, one is @10% and the other is @12%. 10% rate is only applicable to five industries, namely bidis, bricks,jute,coir and guar gum industries. This rate is also applicable to establishments covered prior to Sept.22, 1997 in which less than 20 persons are employed.

An important point to note is that there is no upper limit of the rate of contribution to the **Provident Fund** by an employee. The Act provides the lower limit of 10% or 12% as the case may be and enables the employee to contribute at such higher rate as he may desire. But it does not mean that the employer should also contribute at the higher rate. The contribution of the employer shall remain limited to the statutory rate of contribution i.e 10% or 12% as is applicable under the Act.

The whole of the employee's share goes to the Povident fund account

The employer's share(either 12% or 10% whichever applicable) is bifurcated into two parts:

- One part of 8.33% is diverted to the **Pension fund account** and

- The remaining part of employer's share out of the total of 12% or 10%, whichever applicable i.e 3.67% (12% less 8.33% diverted to pension fund account) or 1.67%(10% less 8.33% diverted to the pension fund account)alongwith the employee's share is credited to **Provident fund account.**

The Central Government also would contribute at the rate of 1.16% of total wages to the **Employee's Pension Scheme, 1995**.

A clarification about the contribution:

The amount of wage ceiling for the purpose of compulsorily becoming the member under the above mentioned schemes has been revised up from Rs.5,000 p.m to Rs.6,500 p.m with effect from 1.6.2001.Further for the purpose of computing the contribution,the actual wage amount will be limited to Rs.6,500 only.

A comprehensive example to understand the above provisions relating to the determination of the amount of the provident fund contribution and the pension fund contribution is given below:

For example an employee drawing wages more than Rs.6,500 can also become the member of the fund and the scheme on the joint request of the employee and the employer and if ,for instance such an employee is drawing wages of Rs.10,000 per month, his own share towards **Provident fund** contribution will be Rs.1,200 i.e 12% of Rs.10,000 and the total amount of the employer's contribution will also be for an equal amount of Rs.1,200.The total amount of the employer's contribution will be bifurcated into two parts. One part goes to the Provident fund and the remaining part goes to the Pension. The calculation is shown below in two steps:

Step 1: Calculation of the employers' contribution towards Employees' Pension fund.

The Rupee equivalent of 8.33% of Rs.6,500 i.e an amount of Rs.541 in case of the above example will be credited to the employees' **Pension fund** out of the employers contribution.

Step 2: Calculation of the employers' contribution towards the Provident Fund Scheme.

The remaining part of the total amount of the employers contribution of Rs.1,200 after diverting an amount of Rs.541 to pension fund account will be credited to the **Provident fund account**,which works out to Rs.659 (Rs.1200 less Rs.541).

c) Employees' Deposit Linked Insurance Scheme,1976

No amount is recovered from employee's wages. Under the Employees deposit linked insurance scheme only the employer contributes @ 0.5% based on the actual basic wage/salary not exceeding Rs.6,500 per month(w.e.f 01-06-2001).In other words, when the actual basic wage/salary exceeds Rs.6,500 p.m the contribution payable by the employer will be calculated by applying the rate of 0.5% on the amount of Rs.6,500.

Other financial obligations of the employer under the above said Act

Administrative Charges:

- An employer is required to pay administrative charges at 1.10% of emoluments towards provident fund and 0.01% towards Employees Deposit Linked Insurance Scheme 1976.
- No separate administrative charges for pension scheme

Interest Liability:

- For belated remittances of contributions, administrative / inspection charges interest at the rate of 12% on such remittances for the period of delay is to be remitted.

Damages:-

- For all the belated remittances of contribution and administration/ inspection charges damages are also payable as penalty ranging from 17% to 37% p.a. depending upon the period of delay.

Duties of Employer in terms of administrative matters

- Enroll **all categories of employees** including the employees engaged by or through contractors.Piece rated, hourly rated employees are also included.
- Remit the contributions and administrative charges **before the 15th of the following month.**
- File **the initial returns of Form 9, Form 3, form 5A** as soon as the Act becomes applicable to the organisation.
- File the **monthly returns in Form 12A, Form** 5, **Form 10 and Challans for remitting the dues.**
- **Maintain the contribution card** in respect of each employee in Form 3A and submit the annual returns in Form 3A and 6A after reconciliation with Challans and form 12A.
- The employer has to ensure **that statutory dues in respect of contractors employees are remitted and returns filed**.
- **Employer should attest the form No.2 and** the claims forms submitted by the member/ legal heirs/ nominees.
- **Make available all relevant records** for inspection of visiting officials with due authorisation.

Important dates to remember:

Some of the important dates to remember under the Employee's Provident Funds & Misc. Provisions Act,1952 are given in the following table:
Only one challan is used for all the

Important dates to remember:

S.No.	Purpose	Due Date
1.	Deposit of both Shares of EPF contribution	15th of the following month
2.	Deposit of Administration/Inspection Charge	15th of the following month
3.	Deposit of Insurance fund	15th of the following month
4.	Deposit of the Administration/Inspection Charge	15th of the following month

deposits. When deposits are made by cheque, the proof of date of deposit of cheque with SBI Bank is important. As per the law the date of the deposit of cheque with SBI will be treated as the date of deposits for the purposes of the Act and Scheme.

(…….to be continued)

Rahul Khanna, FMSF