

**Anonymous donations under section 115BBC will not entail levy of interest
under section 234B and penalty under section 271(1)(c)**

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Sometime back, I had to deal with a case of a charitable institution which is running a number of educational institutions. For one assessment year, certain donations received by the trust were disclosed as anonymous donations, as per the provisions of section 115BBC of the Income-Tax Act, 1961 (the Act). As per section 115BBC(1)(i), the assessee trust paid tax on the anonymous donations at the rate of thirty per cent (30%) thereof.

As the aforesaid disclosure of anonymous donations was totally a voluntary act on the part of the assessee trust, the trust was assured by the Assessing Officer (AO), that the aforesaid disclosure will not invite any adverse consequences, including interest and penalty. However, in the assessment order passed under section 143(3) of the Act, the AO levied interest under section 234B and also penalty under section 271(1)(c) of the Act. After the receipt of the aforesaid assessment order, I started a thorough examination of the provisions of section 115BBC, the purpose behind its insertion in the Act and also the applicability of the other provisions under the Act, in respect of the donations brought to tax, as anonymous donations under section 115BBC of the Act.

The first thing which struck me in this regard was that section 115BBC was brought on the Statute, vide Finance Act, 2006, with effect from 1.4.2007 and as a consequence of the insertion of section 115BBC, no changes were made in any of the other provisions of the Act, except the insertion of section 13(7) of the Act. In the present context, it is also relevant to state that section 115BBC was inserted under Chapter XII, the heading of which is “*Determination of tax in certain special cases*”. It obviously implies that except charging tax on anonymous donations at the rate of thirty per cent (30%) thereof, no other provisions of the Act, including the provisions relating to interest and penalty, would be applicable in relation to such anonymous donations.

In the light of the aforesaid reasons, it is evident that the provisions of section 115BBC suffer from a number of ambiguities, particularly applicability thereof, vis-à-vis the other relevant provisions of the Act.

In the present context, therefore, it would be relevant to discuss the following aspects / issues :

- (i) Impact of insertion of section 115BBC on other relevant provisions of the Act.
- (ii) The purpose behind the insertion of section 115BBC.
- (iii) The interpretation of the relevant sections of the Act vis-à-vis section 115BBC.

The aforesaid issues are discussed, in detail, as follows :

I. Impact of insertion of section 115BBC on other relevant provisions of the Act.

Section 115BBC under the title “*Anonymous donations to be taxed in certain cases*” was inserted in the Act by the Finance Act, 2006, with effect from 1.4.2007. It will also be relevant in this context, to point out that section 115BBC has been included in Chapter XII, the heading of which is “*Determination of tax in certain special cases*”. If one looks at the various sections under Chapter XII, viz. sections 110 to 115BBE, all of them deal with computation of tax in respect of certain special types of income. In other words, Chapter XII provides the rules for computation of tax in certain special cases. Section 110 deals with rebate of tax, where the total income of an assessee includes income on which no tax is payable. Besides, sections 111 to 115BBE, deal with computation of tax in respect of certain special types of income, for which some concessions are provided.

Before proceeding further, it would be appropriate to examine the present provisions of section 115BBC and for that purpose, the same are reproduced as follows :

“Anonymous donations to be taxed in certain cases.

115BBC(1) *Where the total income of an assessee, being a person in receipt of income on behalf of any university or other educational institution referred to in sub-clause (iiiad) or sub-clause (vi) or any hospital or other institution referred to in sub-clause (iiiiae) or sub-clause (via) or any fund or institution referred to in sub-clause (iv) or any trust or institution referred to in sub-clause (v) of clause (23C) of section 10 or any trust or institution referred to in section 11, includes any income by way of any anonymous donation, the income-tax payable shall be the aggregate of—*

- (i) the amount of income-tax calculated at the rate of thirty per cent on the aggregate of anonymous donations received in excess of the higher of the following, namely:—*

(A) five per cent of the total donations received by the assessee; or

(B) one lakh rupees, and

(ii) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the aggregate of anonymous donations received.]

(2) The provisions of sub-section (1) shall not apply to any anonymous donation received by—

(a) any trust or institution created or established wholly for religious purposes;

(b) any trust or institution created or established wholly for religious and charitable purposes other than any anonymous donation made with a specific direction that such donation is for any university or other educational institution or any hospital or other medical institution run by such trust or institution.

(3) For the purposes of this section, "anonymous donation" means any voluntary contribution referred to in sub-clause (iia) of clause (24) of section 2, where a person receiving such contribution does not maintain a record of the identity indicating the name and address of the person making such contribution and such other particulars as may be prescribed."

From the aforesaid provisions, it may be seen that section 115BBC refers to a number of sections of the Act, which may be stated as follows :

- (i) A number of sub-clauses of clause (23C) of section 10
- (ii) Section 11
- (iii) Section 2(24)(iia)

It may also be stated here that as per para 25.4 of Circular No.14 of 2006, dt.28.12.2006 [288 ITR (St) 9], consequential amendments have been made in section 10(23C) and section 13, in order to provide that any income by way of any anonymous donation, which is taxable under section 115BBC, shall be included in the total income of the assessee.

In the present context, it would also be appropriate to briefly refer to the other relevant provisions of the Act, including the provisions relating to levy of interest and penalty. The date

of insertion of the same, vis-à-vis the date of insertion of section 115BBC in the Act, may be discussed as follows :

1. Section 2(24)(iia), relating to voluntary contributions, as part of “*income*”, was inserted by the Finance Act, 1972, with effect from 1.2.1973.
2. Section 2(45), relating to definition of “*total income*” has been there in the Act, right from the beginning.
3. Section 4 being the charging section, including section 4(2), relating to advance-tax and TDS has also been in the Act, right from the beginning.
4. Section 5, relating to scope of total income has also been in the Act, right from the beginning.
5. Section 11, relating to exemption of income of charitable trusts, etc, was first omitted by the Direct Tax Laws (Amendment) Act, 1987, with effect from 1.4.1989 and was reintroduced by the Direct Tax Laws (Amendment) Act, 1989, with effect from the same date, viz. 1.4.1989, with modifications.
6. Section 12, relating to income of trusts or institutions from contributions has got the same history as that of earlier section 11.
7. Section 234B, regarding levy of interest for non-payment of advance-tax, was brought on the statute by Direct Tax Laws (Amendment) Act, 1987, with effect from 1.4.1989.

Similar is the position in respect of section 234C

8. Section 271, regarding levy of penalty for concealment of income, etc, was restored to its original version by the Direct Tax Laws (Amendment) Act, 1989, with effect from 1.4.1989.
9. Section 115BBC, relating to tax on anonymous donations was brought on the statute by the Finance Act, 2006, with effect from 1.4.2007.

If we look at the aforesaid sections, along with the dates of their insertion in the Act, it would be quite clear that as a result of the insertion of section 115BBC in the Act by the Finance Act, 2006, with effect from 1.4.2007, no changes were made in any of the aforesaid provisions of the Act, except the insertion of section 13(7) in the Act. It would, therefore, clearly imply that the other provisions under the Act, will not be impacted by the insertion of section 115BBC in the Act, relating to anonymous donations.

Therefore, if the quantum of the donations which are treated as anonymous is already disclosed in the return of income and the books of account of the trust, then the question of concealment

of any income does not and cannot arise. Similarly, if the total income of the trust, as per the provisions of section 11 of the Act, is computed at Rs.Nil, then the question of payment of any advance-tax by the trust just cannot arise.

II. The purpose behind the insertion of section 115BBC.

The purpose behind the insertion of section 115BBC is to be found in Circular No.14 of 2006, dt.28.12.2006, wherein Explanatory Notes on the provisions of the Finance Act, 2006, have been provided. For our purpose, para 25 upto sub-para 25.5 of the aforesaid Circular, on page 30 of 288 *ITR (St)*, is relevant. For the purpose of ready reference, the aforesaid para 25 upto sub-para 25.5 is reproduced as follows :

“25. Taxation of anonymous donations received by wholly charitable trusts or institutions including non-profit educational or medical institutions

25.1 Income of wholly charitable or religious trusts or institutions as well as partly charitable or religious trusts or institutions is exempt from income-tax under sections 11 and 12, subject to the fulfilment, inter alia, of certain conditions of application of income and investment in specified modes. Similarly, income of any university or other educational institution referred to in sub-clause (iiia) or sub-clause (via) or any hospital or other medical institution referred to in sub-clause (iiiae) or sub-clause (via) or any fund or institution referred to in sub-clause (iv) or any trust or institution referred to in sub-clause (v) of clause (23C) of section 10, is exempt from income-tax subject to the fulfilment of conditions specified in the said clause.

25.2 With a view to prevent channelisation of unaccounted money to these institutions by way of anonymous donations, a new section 115BBC has been inserted to provide that any income of a wholly charitable trust or institution by way of anonymous donation shall be included in its total income and taxed at the rate of 30 per cent. Anonymous donation made to wholly charitable and religious trusts or institutions, i.e. mixed purpose trusts or institutions shall be taxed only if it is for any university or other educational institution or any hospital or other medical institution run by them. Anonymous donation to wholly religious trusts or institutions will not be taxed.

25.3 Anonymous donation has been defined in the new section to mean any voluntary contribution referred to in section 2(24)(iia) of the Act, where a person receiving such

contribution does not maintain a record of the identity indicating the name and address of the person making such contribution and such other particulars as maybe prescribed.

25.4 *Consequential amendments have been made in section 10(23C) and section 13 to provide that any income by way of any anonymous donation which is taxable under section 115BBC, shall be included in the total income of the assessee.*

25.5 *Applicability - From Assessment year 2007-08 onwards.”*

From the aforesaid sub-para 25.2, it may be seen that section 115BBC was inserted in the Act, in order to prevent channelization of unaccounted money to certain educational or medical institutions, by way of anonymous donations and accordingly, it was provided that any income of a wholly charitable trust or institution, by way of anonymous donation shall be included in its total income and taxed at the rate of thirty per cent (30%).

Besides, as per sub-para 25.4, consequential amendments were made in section 10(23C) and section 13, to provide that any income by way of anonymous donation, which is taxable under section 115BBC, shall be included in the total income of the assessee.

It may also be stated here that section 115BBC was amended by the Finance (No.2) Act, 2009, with effect from 1.4.2010. Vide the aforesaid amendment, sub-section (1)(I) and (ii) were substituted. The aforesaid amendment was explained by Circular No.5, dt.3.6.2010 [324 ITR (St) 293]. The aforesaid amendment was explained in para 39 of the said Circular No.5. As per sub-para 39.2, it has been explained that in the case of wholly charitable institutions, anonymous donations shall be taxable only to the extent such donations exceed five per cent (5%) of the total donations received by such trust or institution or a sum of Rs.1 lakh, whichever is more. It may, thus, be seen that vide the aforesaid amendment, a concession was provided regarding the tax-treatment of anonymous donations.

III. The interpretation of the relevant sections of the Act vis-à-vis section 115BBC.

We may now examine the various sections of the Act, listed in the preceding para (I), which are relevant in the present context. The same are discussed as follows :

1. Section 2(24)(iia) – Definition of “income” regarding voluntary contributions, etc.

In the present context, the definition of the word “income” as provided under section 2(24) of the Act, is very relevant. For our purpose, sub-clause (iia) of section 2(24) is relevant.

For the sake of ready reference, the relevant part of section 2(24) of the Act, is reproduced as follows :

“Definitions.

2. In this Act, unless the context otherwise requires,—

(24) *"income" includes—*

(i) *profits and gains ;*

(ii) *dividend ;*

(iia) *voluntary contributions received by a trust created wholly or partly for charitable or religious purposes or by an institution established wholly or partly for such purposes or by an association or institution referred to in clause (21) or clause (23), or by a fund or trust or institution referred to in sub-clause (iv) or sub-clause (v) or by any university or other educational institution referred to in sub-clause (iiia) or sub-clause (vi) or by any hospital or other institution referred to in sub-clause (iiiae) or sub-clause (via)] of clause (23C) of section 10 or by an electoral trust.*

Explanation.—For the purposes of this sub-clause, "trust" includes any other legal obligation ;

(iii) *to (xvi) ***** ”*

From the aforesaid definition of “*income*”, it may be seen that as per sub-clause (iia) of section 2(24), “*income*” includes voluntary contributions received by a trust created wholly or partly for charitable or religious purposes, etc. Besides, it may also be seen that only voluntary contributions are included in the definition of “*income*” under section 2(24)(iia) of the Act and therefore, except the quantum of the voluntary contributions or donations, nothing more is required to be disclosed as part of income in the return of income or the books of accounts.

It may be further seen that the insertion of section 115BBC in the Act, has not made any changes as regards the definition of “*income*” under section 2(24)(iia) of the Act. **In other words, it may be clearly stated that in respect of the aforesaid voluntary**

contributions, the details of the concerned donors are not required to be disclosed. It may also be stated here that once quantum of the voluntary contributions / donations has already been disclosed in the return of income and the books of account of the trust, such voluntary contributions / donations cannot be included twice in the total income, just because the identity of the donors in respect thereof, is not available with the trust. In other words, if the money comes out of the disclosed income, but without identity of the donors, then it cannot be taxed twice, because such a step would be unwarranted.

It would, therefore, imply that the issue of anonymous donations and tax-treatment thereof, will remain confined only to section 115BBC and at the most, there may be a consequential impact in the tax-treatment thereof, as per section 13(7) of the Act.

2. Section 2(45), relating to definition of “total income”

As per section 2(45), “total income” means the total amount of income referred to in section 5, computed in the manner laid down in this Act.

In the first place, it may be noted here that the provisions of section 115BBC have got no impact on the aforesaid definition of “total income” and besides, the computation of total income, as contemplated under section 11 of the Act, will also not be affected, at all, by the provisions of section 115BBC of the Act.

3. Section 4(2), relating to advance-tax and TDS

In the present context, section 4(2) of the Act is also relevant. For the sake of ready reference, section 4 of the Act is reproduced as follows :

“Charge of income-tax.

4. (1) *Where any Central Act enacts that income-tax shall be charged for any assessment year at any rate or rates, income-tax at that rate or those rates shall be charged for that year in accordance with, and subject to the provisions (including provisions for the levy of additional income-tax) of, this Act in respect of the total income of the previous year of every person :*

Provided that where by virtue of any provision of this Act income-tax is to be charged in respect of the income of a period other than the previous year, income-tax shall be charged accordingly.

(2) In respect of income chargeable under sub-section (1), income-tax shall be deducted at the source or paid in advance, where it is so deductible or payable under any provision of this Act.”

From the aforesaid provisions of section 4(1), it may be seen that tax will be charged for any assessment year, in respect of **total income** of the previous year of every person.

Further, as per the provisions of section 4(2), in respect of income chargeable under section 4(1), i.e. **total income**, income-tax shall be **deducted at source or paid in advance**, where it is so deductible or payable under any provision of the Act.

From the aforesaid provisions of sections 4(1) and 4(2), it may be clearly seen that advance-tax is payable in respect of total income for the relevant assessment year. Therefore, if the total income of the trust, as per the provisions of sections 11 and 12 is computed at Rs.Nil, then the question of payment of advance-tax by the trust / institution cannot arise.

4. Section 5 – Scope of total income

As regard the provisions of section 5, relating to scope of total income, there is no impact of the provisions of section 115BBC on the same, because the present provisions of section 5 of the Act, have been in the Act right from the beginning.

5. Section 11 – Computation of total income of a charitable or religious trust / institution

Section 11 placed in Chapter III, relating to exempt incomes, specifically exempts the income of a charitable or religious trust, if the conditions laid down there under are satisfied. The relevant part of section 11 reads as follows :

“11 (1) Subject to the provisions of section 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income—

(a) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in

India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of fifteen per cent of the income from such property;”

In the first place, from the aforesaid provisions of section 11(1), it may be seen that computation of “total income” under section 11 is subject to the provisions of sections 60 to 63 only, whereas the term “total income” as defined under section 5, r.w.s.2(45) of the Act, is subject to all the provisions of the Act and accordingly, the term “total income”, as contemplated under section 11(1), is not subject to the provisions of section 115BBC.

Besides, as per section 12(1), any voluntary contributions received by a trust, shall for the purposes of section 11 be deemed to be income derived from property held under trust. Therefore, section 12 will also be subject to the provision of sections 60 to 63, as in the case of section 11(1) and accordingly, section 12(1) will also not be subject to the provisions of section 115BBC of the Act.

In view of the aforesaid reasons, any voluntary contributions if applied towards the objects of the trust, will be exempt from tax as per the provisions of section 11(1), r.w.s.12(1) of the Act, irrespective of the fact that whether such voluntary contributions are anonymous or otherwise.

In the light of the aforesaid reasons, it is quite clear that if the receipts of the trust, including voluntary contributions / donations have been applied to the objects of the trust, as per the provisions of section 11(1), then the total income of the trust will have to be computed at Rs.Nil.

In this context, it will also be appropriate to refer to the provisions of section 13(7), which has been inserted as a consequence of the insertion of section 115BBC of the Act. For the sake of ready reference, section 13(7) is reproduced as follows :

“13. (7) Nothing contained in section 11 or section 12 shall operate so as to exclude from the total income of the previous year of the person in receipt thereof, any anonymous donation referred to in section 115BBC on which tax is payable in accordance with the provisions of that section.”

From the aforesaid provisions of section 13(7), it may be seen that anonymous donation will not be excluded from the total income, in accordance with the provisions of section 11

or section 12. In other words, it would imply that even if the anonymous donations are applied towards the objects of the trust, tax on the same will have to be paid at the rate of thirty per cent (30%), in accordance with the provisions of section 115BBC. Thus, the impact of section 13(7) will also be only in respect of additional tax on anonymous donations, as per section 115BBC and no other consequences will follow in respect thereof, under any of the other provisions of the Act, including the provisions relating to levy of interest or penalty.

6. Section 234B, relating to levy of interest for non-payment of advance-tax

In the present context, section 234B(1) is relevant. For the sake of ready reference, the same is reproduced as follows :

“234B. (1) Subject to the other provisions of this section, where, in any financial year, an assessee who is liable to pay advance tax under section 208 has failed to pay such tax or, where the advance tax paid by such assessee under the provisions of section 210 is less than ninety per cent of the assessed tax, the assessee shall be liable to pay simple interest at the rate of one per cent for every month or part of a month comprised in the period from the 1st day of April next following such financial year to the date of determination of total income under sub-section (1) of section 143 and where a regular assessment is made, to the date of such regular assessment, on an amount equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid as aforesaid falls short of the assessed tax.

Explanation 1.—In this section, "assessed tax" means the tax on the total income determined under sub-section (1) of section 143 and where a regular assessment is made, the tax on the total income determined under such regular assessment as reduced by the amount of,—

- (i) any tax deducted or collected at source in accordance with the provisions of Chapter XVII on any income which is subject to such deduction or collection and which is taken into account in computing such total income;*
- (ii) any relief of tax allowed under section 90 on account of tax paid in a country outside India;*

(iii) any relief of tax allowed under section 90A on account of tax paid in a specified territory outside India referred to in that section;

(iv) any deduction, from the Indian income-tax payable, allowed under section 91, on account of tax paid in a country outside India; and

(v) any tax credit allowed to be set off in accordance with the provisions of section 115JAA or section 115JD

Explanation 2.—Where, in relation to an assessment year, an assessment is made for the first time under section 147 or section 153A, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

Explanation 3.—In Explanation 1 and in sub-section (3) "tax on the total income determined under sub-section (1) of section 143" shall not include the additional income-tax, if any, payable under section 143."

In the first place, it may be seen from the aforesaid provisions of section 234B(1) that where in any financial year, an assessee who is liable to pay advance-tax under section 208, has failed to pay such tax, etc, the assessee shall be liable to pay simple interest on an amount equal to the assessed tax. In this connection it will be relevant to refer to the earlier sub-para (3), relating to section 4(2) of the Act. As per the aforesaid sub-para (3), if the total income of the trust, as per the provisions of sections 11 and 12 is computed at Rs.Nil, then the question of payment of advance-tax by the trust / institution will not arise. Therefore, in case where the income of the trust is computed at Rs.Nil, as per the provision of sections 11 and 12, then the question of levy of any interest in such a case, cannot arise.

Further, from the aforesaid provisions of section 234B(1), it may be seen that subject to the other provisions of **this section**, i.e. section 234B, where in any financial year an assessee is liable to pay advance-tax or where the advance-tax paid by such assessee is less than ninety per cent (90%) of the **assessed tax**, the assessee shall be liable to pay simple interest at the rate of one per cent (1%) for every month or part of the month comprised in the period from first day of April next following such financial year to the **date of determination of total income** under section 143(1) and where a regular assessment is made, to the **date of such regular assessment**, on an amount equal to the **assessed tax** or,

as the case may be, on the amount by which the advance tax paid as aforesaid, falls short of the **assessed tax**.

Further, as per Explanation 1 to section 234B(1), “assessed tax” means tax on total income.

Therefore, if the total income of the trust / institution, as computed under the provisions of section 11(1), r.w.s.12 of the Act is Nil, the interest leviable under section 234B of the Act, would also be Nil.

In the light of the aforesaid provisions, it is crystal clear that the fact that some of the donations included in the total income of the trust / institution are anonymous donations, will not result in the levy of interest under the provisions of section 234B or 234C of the Act. In other words, the payment of additional tax on anonymous donations under section 115BBC will not result in the levy of interest under the provisions of section 234B or section 234C of the Act and accordingly, no interest will be chargeable in respect of such anonymous donations.

7. Section 271(1)(c) - Penalty for concealment of income, etc.

As already pointed out, there has been no impact of the insertion of section 115BBC on the provisions of section 271(1)(c) of the Act. In the present context, we are concerned with the provisions of section 271(1)(c) of the Act. For the sake of ready reference, section 271(1)(c) of the Act, is reproduced as follows :

“Failure to furnish returns, comply with notices, concealment of income, etc.

271 (1) If the Assessing Officer or the Commissioner (Appeals) or the Commissioner in the course of any proceedings under this Act, is satisfied that any person—

(a) *****

(b) *****

(c) has concealed the particulars of his **income** or furnished inaccurate particulars of **such income**, or

he may direct that such person shall pay by way of penalty,-” [Emphasis added]

From the aforesaid provisions of section 271(1)(c), it is quite clear that penalty there under is leviable only where the assessee has concealed the particulars of his **income** or furnished inaccurate particulars of **such income**.

In this context, it will also be relevant to refer to the meaning of the term “*particulars*”. As per the judgement of the Apex Court, in the case of *CIT Vs Reliance Petroproducts P.Ltd [2010] 322 ITR 158 (SC)*, the meaning of the word “*particular*” is - *a detail or details*. Besides, as per the Concise Oxford Dictionary, the meaning of the word “*particular*” is – *a detail; an item*.

In view of the aforesaid reasons, there will be no concealment of particulars of income if the trust has disclosed the impugned items of donations in its return of income.

In this connection, we may also consider a situation where the donations are not, at all, disclosed in the return of income, then obviously there is a concealment of particulars of such donations. In contrast to such a case, consider a case where the donations have been disclosed in the return of income and also in the books of account of the trust without the identity of the donors. On such a comparison, it will be preposterous to conclude that there is a concealment of income, in respect of the voluntary contributions / donations, which have been disclosed in the return of income and the books of account of the trust, without the identity of the donors.

In the light of the aforesaid reasons, the disclosure of anonymous donations cannot invite penalty under the provisions of section 271(1)(c) of the Act. In other words, if the impugned donations have been disclosed in the return of income and the books of account maintained by the trust, then section 271(1)(c) of the Act, cannot be invoked, irrespective of the fact that such donations are anonymous donations.

8. *Reliance on the judgement of Delhi High Court, in the case of Keshav Social and Charitable Foundation*

In the present context, the judgement of Delhi High Court, in the case of *DIT(E) Vs Keshav Social and Charitable Foundation [2005] 278 ITR 152 (Del)*, is also relevant.

In this case, the assessee had furnished the list of donors. The AO disallowed the claim of the assessee for exemption under section 11 of the Act, stating that the assessee could not furnish details regarding the donors and that it was just a way of introducing unaccounted money into the books of the assessee Trust and thus, treating the same as cash credit under

section 68 of the Act. The Tribunal held that since more than 75% of the donations received by the assessee were spent for charitable purposes, the addition was not justified.

On further appeal before the High Court, dismissing the appeal of the Department, it was held that to obtain benefit of exemption under section 11 of the Act, the assessee was required to show that donation was voluntary. In the present case, the assessee had not only disclosed its donations, but also submitted a list of donors. The fact that complete details of donors had not been filed or that the donors had not been produced, need not necessarily lead to the inference that the assessee had tried to introduce unaccounted money, by way of donation receipts. This was shown in the facts of the case, where admittedly 75% of donations were applied for charitable purposes. Section 68 of the Act had no application to the facts of the case, because the assessee had in fact disclosed donations of Rs.18,24,200, as its income and it could not be disputed that all receipts other than corpus donations would be income in the hands of the assessee. **There was, thus, full disclosure of income by the assessee and also application of the donations for charitable purposes.** In the aforesaid judgement, the Delhi High Court had relied upon the judgement of the Supreme Court, in the case of *S.R.M.C.T.M.Tiruppani Trust Vs CIT [1998] 230 ITR 636 (SC)*.

From the aforesaid judgement of the Delhi High Court, it is clearly established that in case of a trust there will be full disclosure of income, if the anonymous donations have been disclosed in the return of income. Therefore, the question of concealment of any part of income in such a case cannot arise.

IV. Conclusion

In the light of the discussion of all the relevant provisions under the Act in the preceding paragraphs, it is clearly established that –

1. The factum of some donations being anonymous, though disclosed in the return of income and the books of account of the trust, will not invite the levy of interest under the provisions of section 234B or section 234C and accordingly, no interest under section 234B or 234C of the Act, will be leviable in such a case.
2. The factum of some donations being anonymous, though disclosed in the return of income and the books of account of the trust, will not invite penalty under the provisions of section 271(1)(c) of the Act and accordingly, no penalty for concealment will be leviable in such a case.

3. As regard the provisions of section 115BBC, the impact of the same will remain confined to the charge of tax at the rate of thirty per cent (30%) on the quantum of anonymous donations and the same will not lead to any adverse consequences under any other provisions of the Act.

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