

## **Important Information for the Charitable & Religious Trusts**

We would like to bring to your notice that, all the Charitable & Religious Trusts Registered in Maharashtra State have to pay 2% Cess / Levy / Fees / Contribution to the Charity Commissioner's office, on their total collection towards donation / gifts / aids etc.

In respect of this subject, Supreme Court has given clear Judgment wide ref: Manu/SC/0532/1975-AIR 1975, S.C. 846 (1975), ISCC, 509 (1975) 3 SCR-475, in which is adjudicated that the Charity commissioner can not collect 2% as cess / contribution if they have sufficient fund to meet their expenses. Also Rule 32 of Public Trust Act was declared ULTRA VIRUS in the judgment. Still if they are collecting 2% it is illegal because it assumes a form of tax and not the fees or cess.

The above thing has come to our notice, under Right-To-Information Act the information received by us from the office of the Charity Commissioner is as under. Besides this we have requested for more information which is yet to be received. (i.e: Difference of Balance Amount of I No. 3-I No. 4 in detail).

From the year 1996-97 to 2005-06, every year, Charity Commissioner's office is collecting much more than required. This is classified as "Excess Contribution" which they are investing in Banks FDRs and other venues.

1. Excess Contribution (1996/97 to 2005/06 (D)	Rs. 165,15,61,770.22
2. Interest Income on the above (C)	Rs. 69,30,20,912.59
3. Total Excess Contribution (1+2) (D+C)	Rs. 234,45,82,682.81
4. Fixed Deposits in Bank as on March 2006 (G)	Rs. 155,47,83,162.00
5. Yearly Interest Income (2005/2006) on FDRs	Rs. 8,73,92,316.00
6. Yearly Contribution received from the Trusts (2004/05)	Rs. 19,91,33,248.00
7. Charity Commissioner's yearly office Exp. (Both Capital & Revenue) year 2005/2006	Rs. 9,29,44,893.00
8. Net balance amount after deducting yearly Expinditure (No. 6-No.7)	Rs. 10,61,88,355.00
9. Interest received on Banks F.D.R. plus Net balance amount after exp. (No. 5 + No. 8)	Rs. 19,35,80,564.00

It can therefore be safely assumed that the interest and other income only is sufficient to meet expenses of Charity Commissioner's Office, and a small shortfall, if any, can be made up from the surplus fund. Even if required they can spent upto Rs. One to Two Crores, from "Excess Contribution" and still excess contribution fund will last for more than 80 years and hence they can operate very well without collecting any cess from trusts.

All Trustess, are requested to take proper and correct guidance from solicitor/advocate and take necessary steps. Till the time Charity Commissioner's office is having excess collection they can not collect any payment, from the Trusts as cess of fees.

*For more information kindly contact :*

**Shri Manaharbhair Shah** . . . No. : 20611893

**Shri Girishbhair Shah** Mob No. : 9324328790

Email - nirshah@yahoo.com

*For Corropondance address*

Sheth Vadilal Sarabhai Derasarji Trust  
Shree Chandraprabha Jain Temple, 186,  
Raja Ram Mohan Roy Road, Prathna Samaj, Mumbai-400 004.

श्री. राजेश शिवाजी  
902, गारोवा रोड,  
मुंबई - 3

समाचार केंद्र, महाराष्ट्र राज्य, मुंबई  
समाचार केंद्र, महाराष्ट्र राज्य  
43, डॉ. अनी बेंडट रोड, काली  
मुंबई 400 034

फाल्गुनी 2007  
FEB 2007

विषय: - गारोवा अगष्ट - 2007

वाच्य,

फाल्गुनी 2007  
FEB 2007

अशक्त विषयाच्या स्वीकार

अशक्त विषयाच्या स्वीकाराबाबत आपण अनेकदा ऐकून घेतलेले आहे. अशक्त विषयाच्या स्वीकाराबाबत आपण अनेकदा ऐकून घेतलेले आहे. अशक्त विषयाच्या स्वीकाराबाबत आपण अनेकदा ऐकून घेतलेले आहे.

अशक्त


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सहाय्य केंद्र

-माहितीचा अधिकार- अर्ज क्र ३०/०७-

- Amount invested in F.D.R. upto 31/3/2006 -

Sr. No.	Name of Bank	Total Amount
1	Allahabad Bank	27,250,000
2	Bank of Baroda	32,000,000
3	Bank of India	151,068,058
4	Bank of Maharashtra	112,215,104
5	Canara Bank	88,000,000
6	Central Bank of India	182,000,000
7	Corporation Bank	78,000,000
8	Dena Bank	63,000,000
9	Indian Bank	73,250,000
10	Indian Overseas Bank	5,000,000
11	Oriental Bank of Commerce	117,000,000
12	Punjab National Bank	11,500,000
13	SBI Commercial & Industrial Bank	10,000,000
14	State Bank of Hyderabad	30,000,000
15	State Bank of India	148,000,000
16	State Bank of Bikaner & Jaipur	10,000,000
17	State Bank of Indore	22,500,000
18	State Bank of Trivancore	40,000,000
19	Syndicate bank	65,000,000
20	UCO Bank	85,500,000
21	Union Bank of India	117,500,000
22	United Bank of India	25,000,000
23	Vijaya Bank	61,000,000
	Total	1,554,783,162

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2/2/07



Director of Accounts

Office of the Charity Commissioner  
Maharashtra State, Bombay

महाराष्ट्र शासन  
धर्मादाय आयुक्त, महाराष्ट्र राज्य,  
मुंबई यांचे कार्यालय

धर्मादाय आयुक्त भवन,  
इरा मजला, ८३, डॉ. अनी बेंसंत रोड,  
वरळी, मुंबई ४०० ०१८.  
दूरध्वनी क्रमांक २४९३५४३४ २४९३५४९०

फॅक्स २४९७६४२०

Office of the  
CHARITY COMMISSIONER  
3<sup>rd</sup> Floor, 83, Dr. Annie Besant  
Rd, Worli, Mumbai - 400 018.  
Tel No. 24935434 24935490

Fax No. 24976420

संदर्भ क्रमांक:-मा.अधि. अर्ज क्रमांक ३८४/०६./१३०९/०६

१ दिनांक: २००६

प्रति,  
श्री.सुधांशु वसंत जोशी(पत्रकार),  
२/१२, पुंडलिक स्मृती,  
छेडा रोड, डोंविवली (पू.),  
मुंबई

विषय:-माहितीचा अधिकार,२००५.

महाशय,

उपरोक्त विषयाच्या संदर्भात या कार्यालयाच्या संबंधित शाखेकडून प्राप्त झालेली  
माहिती खालील प्रमाणे देण्यात येत आहे. मुद्या क्रमांक ड-संकेत महाराष्ट्रातील माहिती  
अधिकारी यांची नावे व पत्ते पाठविण्यात येत आहे.

मुद्या क्रमांक अ०:- धार्मिक स्थळे/धार्मिक संस्था यांच्याकडून धर्मादाय आयुक्त, महाराष्ट्र  
शासन यांना कर स्वरूपात नागील पाच वर्षात खालीलप्रमाणे निधी प्राप्त झालेला आहे.

अ.क्र.	वर्ष	जमा निधी
१	२०००-२००१	रु.१५,६०,६१,९०५/-
२	२००१-२००२	रु.१३,१०,१८,०७८/-
३	२००२-२००३	रु.१९,१५,१९,९३०/-
४	२००३-२००४	रु.१७,३३,२४,६८६/-
५	२००४-२००५	रु.१९,९१,३३,२४८/-

मुद्या क्रमांक क:-वक्फ मंडळाकडे नोंदणीकृत असलेल्या मशिदी, दर्गे व मदरसे यांच्याकडून  
नागील पाच वर्षात कर रुपाने जमा झालेल्या रकमेचा तपशिल या कार्यालयात उपलब्ध  
नाही. वरिले रकमांमध्ये याचा अंतर्भाव आहे.


आपला,  
माहिती अधिकारी नाहित्त अधिकारी  
धर्मादाय आयुक्त, महाराष्ट्र राज्य,  
मुंबई यांचे कार्यालय.

-माहितीचा अधिकार- अर्ज क्र ३०/०७-

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2/2/07



Director of Accounts

Office of the Charity Commissioner  
Maharashtra State, Bombay

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MANU/SC/0532/1975

Equivalent Citation: AIR1975SC846, (1975)1SCC509, [1975]3SCR475

**IN THE SUPREME COURT OF INDIA**

Decided On: 10.02.1975

Appellants: **The State of Maharashtra and Ors.**

**Vs.**

Respondent: **The Salvation Army, Western India Territory**

**AND**

Appellants: **The State of Maharashtra and Ors.**

**Vs.**

Respondent: **Shri Lohana Maha Parishad, A Public Trust**

Hon'ble Judges:

K.K. Mathew, N.L. Untwalia and P.N. Bhagwati, JJ.

Subject: **Trusts and Societies**

Catch Words

Mentioned IN

Case Note:

Trusts and Societies – fee – Section 58 of Bombay Public Trusts Act, 1950 and Rule 32 of Bombay Public Trusts Rules, 1951 – whether levy of contribution under Section 58 read with Rule 32 (3) was tax or whether it assumed character of tax subsequently by reason of accumulation of surplus of income – what is nature of fee – payment may be regarded as fee if firstly it is levied in consideration of certain services which may be accepted willingly or unwillingly – secondly amount collected must be earmarked to meet expenses of rendering these services and must not go to general revenue of State – in instant case levy was in nature of fee as there was approximate correlation between contribution levied and expenditure – no mathematical accuracy required in these matters – amount received by respondent cannot be regarded as donations within purview of Section 58 and Rule 32 as former being registered under Companies Act had independent legal personality.

**JUDGMENT**

1. The respondent in this appeal is the Salvation Army, Western India Territory. It is a part of the world-wide organisation known as the Salvation Army. The headquarters of the organisation is in London. The organisation in India was registered as a public limited company under the Indian Companies Act, 1913, having obtained a licence to carry on its activities without suffixing the word 'limited' after its name. It is also registered under the Bombay Public Trusts Act, 1950 (hereinafter called the 'Act') and carries on various charitable activities. The Company has its headquarters in Bombay. The funds of the Company are administered under the Articles of Association by a Board

those years by virtue of the deeming provisions in Section 58 became exonerated for the liability even on the basis of the reasoning of the Division Bench that the levy assumed the character of a tax after 31st March, 1958. The fact that the actual levy was made after 1962 would not make any difference in the liability of the respondent to pay the contribution in respect of these amounts as the liability was incurred when the levy had not assumed the character of tax even according to the Division Bench.

29. We, therefore, hold that the respondent is liable to pay contributions in respect of the three sums and that the Division Bench went wrong in quashing the orders passed by appellants 3 and 4 upholding the levy of contribution on these sums. We also hold that after 31st March, 1970, the levy at the rate of 2 per cent of the gross income of the trust cannot be justified as a fee. This does not mean that no levy of contribution was permissible thereafter. We only say that any levy thereafter should have correlation with the services, taking into consideration the existence of the surplus fund which was not immediately required for further expenditure by way of services including capital expenditure. We declare that levy of contribution at the rate of 2 per cent of the annual gross income of the trusts became levy of tax after 31st March, 1970 and was without the authority of law. Since there was a prayer in the writ petition to declare Rule 32 as ultra vires, we think that the respondent is entitled to this relief.

30. We allow the appeal to the extent indicated but make no order as to costs.

#### II. Civil Appeal No. 488 of 1973

31. In this appeal, the points for consideration are practically the same. For the reasons we have given in our judgment in Civil Appeal No. 487 of 1973, we do not think that the Division Bench was justified in holding that the respondent was not liable to pay contribution in respect of the donations in question here and in quashing the order dated 30th March, 1965. We, therefore, allow the appeal subject to the declaration of the nature of the levy after 31st March, 1970, made in the judgment in Civil Appeal No. 487 of 1973. We make no order as to costs.