

FOUR CONCLUSIONS AND SUGGESTIONS

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CHAPTER FOUR
CONCLUSIONS AND SUGGESTIONS

4.1 Introduction:

The Income-tax Act, 1961, levies tax on income belonging to an assessee derived by him during the previous year. The term "income" stands defined under section 2(24) of the said Act. The assessable entities have also been classified under section 2(31) of the Act and these include an individual, a Hindu undivided family, a company, a firm, an association of persons or a body of individuals, local authority and an artificial, juridical person. However, the charitable institutions have been notionally merged under the artificial juridical person as they do not fall under any other category of the persons. Therefore, a taxable entity, such as charitable institution, has been distinctly defined under the Act. In the earlier discussions, the legal meaning of assigned to the term 'charitable institution' has already been defined. It is also seen that the definition of this term is very exhaustive and includes various purposes such as relief to the poor, education, medical relief, etc. As the person for which the relief is provided under the Act is specific, the procedure relating to the assessment of the charitable institutions is also substantially different; and, therefore, there is a need to incorporate specific and separate provisions for the assessment of charitable institutions or the institutions established for

the religious purposes.

Having summarized the statutory provisions under the Income-tax Act, 1961, it would be evident from the plain reading of section 11 that the entire section itself has been subjected to the provisions of sections 60 to 63 of the Act, which relate to the assessment of income of other persons included in the assessee's total income. Therefore, it is significant to note that the entire foundation of the provisions relating to the charitable or religious institutions have been governed by the provisions of sections 60 to 63 of the Act.

Section 11, as has been stated earlier, deals with the income from the property held for charitable or religious purposes. 'Charity' is a word of Art and has a precise and technical meaning. Hence, it must be construed in its legal and technical sense. The whole scheme of exemptions is interconnected because it confers certain benefits on the community. The charity must be of public character and it does not confine to communal trusts. The specifications under the various heads of charitable purposes, therefore, signify a larger perspective from the point of view of benefits in confers on the public at large.

4.2 Conclusions:

The provisions relating to the assessment of the charitable trusts have been included in the Act with a view to give certain reliefs from the Act. However, the following

conclusions have emerged from the aforesaid observations:

1. Sections 11, 12, 12A and 13 of the Income-tax Act, 1961, deal with the incomes belonging to the charitable institutions, which do not form part of the total income of the assessee. Also, the method for computing the income has been specifically laid down under the Act and it involves considerable technical computations. As such, it is obvious that the scheme relating to the exemptions should be substantially simplified.
2. The very meaning of the term 'charitable purpose', as given under the Act, restricts the scope of the charitable activities. In a country like India, where there is a need for harnessing funds for wider coverage of the community, the meaning assigned to the term 'charitable purpose' is required to be widened in its scope so as not to place any limitations on the scope of the activities of charitable institutions.
3. The conditions under which the exemptions allowable under law are significantly restrictive in their nature and there is a need to widen the scope of the overall exemption of the income from such taxable entities.
4. The provisions clarify that the mode of investment has to be in accordance with the investing agencies specified under the Act. There should be a liberal approach as regards investment of these funds.

5. The conditions of registration of trust, etc., are rather of technical nature and do involve various procedural formalities. There are various situations under which section 13 provides that in certain cases, section 11 is not to apply. There is a need to relax the procedural formalities involved in the registration of charitable institutions.

4.3 Suggestions:

It is, therefore, suggested that the overall **provisions** relating to the assessment of charitable or religious institutions **should be further simplified and rationalized** and the **benefit** of exemptions which the Statute intends to confer on the assessee **should, in the ultimate result, indeed reach the assessee**, rather than create legal and artificial obstacles in the process.

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