



IMPORTANT ASPECTS RELATING TO TRUSTS

Maharashtra Public Trusts Act (MPT)

a. In which cases MPT Act does not apply?

MPT Act is not applicable to Section 25/ Section 8 Companies Act, private trusts and trusts formed outside Maharashtra. If principal/administrative place or substantial properties are located in one state and few branches are spread in another state then situs of such office shall determine the applicability of the Act. – Charity Commissioner of Bombay v/s Administrator of Shringeri Math [Supreme Court].

b. What are prescribed number of trustees and meetings to be held by the trust?

The Act does not specify any minimum or maximum number of trustees. Similarly, the Act does not provide for any minimum number of meetings among trustees. It also does not provide for compulsory holding of annual general meeting. Specifications on number of trustees, meetings to be held etc. may be made in the Trust deed.

c. How does MPT Act distinguish between religious and charitable purpose?

Charitable purpose has been defined in MPT Act, which is similar as in the Income Tax Act, such as relief of poor, education, medical, environment purpose, etc. Religious purpose has not been defined, but may be understood as propagation of any particular religion or its tenets. The charity is the outcome of benevolence or public benefit while religion is the outcome of spiritual wellbeing of a person for religious merit.

d. What are the provisions relating to Budget?

If a charitable trust's annual income exceeds Rs. 10,000/- (Rs. 5,000/- in case of religious trust), then it has to submit a budget showing probable receipts and disbursements of the trust, atleast one month prior to commencement of accounting year.

e. Should all trusts compulsorily get their accounts audited?

A trust having its annual income above Rs. 5,000/- should get their accounts audited by a Chartered Accountant, report of which is to be filed within 6 months from end of the accounting year. A trust having its annual income below Rs. 5,000/-, then it shall prepare the financial statements in prescribed format and submit accounts and copy of bank statement within 3 months from end of accounting year.

f. Whether the Trust is required to maintain any register of movable and immovable properties?

As per rule 24 A of the Maharashtra Public Trust Rules, a public trust shall prepare and maintain a register of all movable and immovable properties in such form or forms giving all the information, as may be prescribed by the Charity Commissioner.



The prescribed contents of the register must contain, the description, weight and estimated value of the jewellery, gold, silver, precious stones, vessels and utensils and all other movable property of the Trust. It must also contain the full descriptions of immovable property, like, Nature of Property, Date of purchase, Type of Agreement, Location of Property, Value of Property, Remarks etc.

g. When Trust is required to file Change Report?

Whenever any change occurs in case of trustees, acquisition of immovable property, Investments etc., a "Change report" needs to be filed within 90 days from the date of such occurrence. In case if there is a delay in filing of change report a condonation affidavit needs to be filed.

h. What if for multiple years, change reports or accounts are not submitted to the charity commissioner?

The Act has given powers to the Charity Commissioner to De-register a trust if such trust has not submitted accounts or change reports for several years. The number of years for non-submission is not specified, hence it becomes subjective to the commissioner.

i. For what all transactions is sanction of Charity Commissioner needed?

Sanction of Charity Commissioner is needed in case of sale, exchange or gift of any immovable property by the trust. The same also applies in case of granting lease by the trust for a period exceeding 3 years. (It should be noted that in any circumstance, the lease period cannot exceed 30 years.) Sanction is also needed in case trustees intend to borrow money for purpose of trust. The trust may sell properties if the proceeds from sale are used to improve existing infrastructure or for any objects of the trust.

j. What benefits are given by the Act to poor and needy people seeking medical care?

For Charitable hospitals – certain beds and facilities are to be earmarked for indigent and weaker section patients. Indigent patients are those with an annual income less than Rs. 1,80,000/-. Weaker section patient means whose annual income is less than Rs. 3,60,000/-. Indigent patients are to be treated free of cost and weaker patients are to be charged at concessional rates. The Charitable Hospital is required to transfer 2% of the total patients billing (excluding billing to indigent and weaker section patients) each month to earmarked Indigent Patient Fund (IPF) Account. Amount available in IPF account shall be spent to provide medical treatment to Indigent and weaker section patients.



k. Are there any permissions needed for casual associations like mitra mandals?

Unregistered associations – like Mitra Mandals, Ganesh utsav, Navratri Pandaals, etc. should take temporary permission online from the charity commissioner for collecting any fund, chandaa, donations, etc. Contravention may result in fine of 1.5 times the funds so collected and/or upto 3 months of imprisonment.

l. Do trusts have to pay anything annually under the MPT Act?

Trusts are liable to pay 2% of their annual income (subject to certain deductions) to the Public Trust Administration Fund. However, currently no such contribution is being collected in view of Bombay HC order no. CA 1 of 2009.

m. What are the permitted modes of investment under the MPT Act?

Public Trust can invest its funds in any of the following modes:

- i. Deposit with any Scheduled Bank
- ii. Postal Saving Bank
- iii. Co-operative Bank approved by the State Government
- iv. Public Securities as defined in section 2(12) of the Act i.e.-
 - * Securities of the Central or any State Govt.
 - * Stocks, debentures or shares in Railway or other companies, the interest or dividend on which has been guaranteed by the Central or any State Govt.
 - * Debentures or other securities for money issued by or on behalf of any local authority in exercise of the powers conferred by an Act of the Central or State Legislative
- v. First Mortgage of immovable property situated in India
- vi. Any other manner permitted by general or special order by the Charity Commissioner

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