

NPO TAXATION

♦ Legal Series Vol. XV ♦ Issue 5

For private circulation only

ANONYMOUS DONATIONS



Standards & Norms

Resource support on NGO Governance, Accounting and Regulations



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OVERVIEW

- 1.01** The Finance Act, 2006 had brought radical changes with regard to treatment of anonymous donations received by charitable organisations. A new section 115B8C was inserted w.e.f. 1-4-2007, whereby anonymous donation is taxable at the rate of 30% without any deduction or set off under any other head.
- 1.02** The Finance (No. 2) Act, 2009, w.e.f. 1-4-2010 provided some relief by exempting anonymous donations to the extent of 5% of total donations received or Rs. 1 lakh, whichever is higher.
- 1.03** Section 115B8C covers only 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 (iiiæe) 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.
- 1.04** The education/medical institutions substantially financed by the government [section 10(23C)(iiiab) & (iiiæc)] and institutions under section 10(46) & 10(46A).
- 1.05** Religious organisations have been kept outside the purview of this provision. In other words, any anonymous donation received by a trust or an institution created wholly for religious purposes shall not be covered by these provisions.
- 1.06** In the case of partly religious and partly charitable institutions, anonymous donations directed towards a medical or educational institution run by such entities shall be covered as anonymous donations. Other donations to partly religious and partly charitable institutions shall remain exempt from taxation by virtue of the clarification provided by CBDT's explanatory Circular No. 5/2010, dated 3-6-2010 on section 115B8C.
- 1.07** Exemptions available under section 11 are not available to the taxable portion of anonymous donations and they are to be taxed as per the provisions of section 115B8C. Therefore, the condition relating to the application and accumulation of

income would not apply to the taxable portion of anonymous donations. Therefore, anonymous donations shall not be subject to 85% application for charitable purposes. In other words, anonymous donations, subjected to tax, can be accumulated indefinitely. It may be noted that the exempted portion of anonymous donation shall be subject to 85% application along with other incomes.

- 1.08** Anonymous donation means any voluntary contribution referred to in sub-clause (iii) 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. It is to be noted that such particulars as mentioned are yet to be prescribed.
- 1.09** Anonymous donations to the extent of 5% of total donations or Rs. 1 lakh, whichever is higher, are exempt as an anonymous donation and are therefore not subject to 30% tax. However, the exempted portion shall form part of the income subject to application under section 11 of the Income-tax Act.
- 1.10** Taxable portion of the anonymous donation is subject to tax @ 30%. Exemptions available under section 11 are not available to the taxable portion of anonymous donations and they are to be taxed as per the provisions of section 115BBC. This part of income can therefore be accumulated indefinitely.
- 1.11** The amount collected from donation boxes should not be considered as an anonymous donation, subject to specific facts and circumstances.
- 1.12** There is a preponderance of judicial precedence that section 68 shall not apply to charitable institutions receiving the anonymous donation.
- 1.13** The High Court of Delhi in the case of *The Commissioner of Income Tax (Exemptions) v. Patanjali Yogpeeth (NYAS)* ITA 886/2017 held that donations collected through sale of coupon from various yoga camp shall not be treated as anonymous based on the affidavits of the President of the camp and the video footage available. In other words, even in the absence of the name and address of the donor, an affidavit by the organisation and corroborative evidence shall be admissible.

- 1.14** In the case of partly religious and partly charitable institutions, anonymous donations shall be exempt from tax unless such donation is directed towards a medical or educational institution run by such entities and shall be taxable only to the extent such donations exceed 5% of total donations received by such trust or institution or a sum of Rs. 1 lakh, whichever is more. Other donations to partly religious and partly charitable institutions shall remain exempt from taxation.

LEGAL PROVISIONS

- 2.01** Section 12(1) was inserted with effect from 1-4-1973 based on the recommendation of the *Wanchoo Committee*. One of the observations of *Wanchoo Committee* was that anonymous donation should not be allowed exemption to curtail the menace of black money. The *Wanchoo Committee* recommended that all anonymous donations to charitable trust should be taxed at the rate of 65%. However, the Select Committee of the Parliament did not accept these recommendations of the *Wanchoo Committee*. It opined that no objection should be made to anonymous donation if it is spent for charitable or religious purposes. It was further observed that, in India, many donors do not like to disclose their identity due to spiritual traditions. Further, donations collected through charity boxes would also come under trouble as it is difficult to establish the identity. The ghost of the *Wanchoo Committee* seems to have been resurrected in the Finance Act, 2006, as a new section 115BBC was inserted, which proposed to tax anonymous donations at a rate of 30%.
- 2.02** The Finance Act, 2006 had brought in radical changes with regard to anonymous donations received by charitable organisations. A new section 115BBC was inserted w.e.f. 1-4-2007 whereby anonymous donations are taxable at the rate of 30% without any deduction or set-off under any other head. This amendment caused harassment to many genuine voluntary organisations that received anonymous donations through donation boxes and various other sources. The Finance Act, 2009 brought some relief to the taxation of anonymous donations by providing some relief to such organisations as, at least, anonymous donation up to 5% of total donations or Rs. 1 lakh whichever is higher was exempted from taxation.

WHAT ARE ANONYMOUS DONATIONS

- 3.01** Section 115BBC(3), defines “anonymous donation” as a voluntary contribution mentioned in sub-clause (iia) of clause (24) of section 2, where the recipient of the contribution does not keep a record of the contributor’s identity, including their name, address, and any other details that may be specified.
- 3.02** It is worth noting that at present, there are no prescribed additional details. Therefore, a donation is considered anonymous only if it is a voluntary contribution and the recipient does not keep a record of the contributor’s identity, including their name and address.
- 3.03** The Finance Act, 2022 has introduced additional requirements to maintain books of account by the trusts and institutions under section 12(1)(b)(i) with effect from the assessment year 2023-24. Furthermore, Sections 13(10) and 13(11) were inserted to provide that if the trust or institution has not maintained the books of account, the income chargeable to tax shall be computed after allowing a deduction for only those expenditures specified in these sections.
- 3.04** To comply with these requirements, the CBDT has notified Rule 17AA through Notification No. 94/2022 dated 10-08-2022, which outlines the books and documents to be maintained by entities approved under Section 10(23C) or registered under Section 12AB. The rule specifies that trusts or institutions should maintain the following records of voluntary contributions, including corpus:
- (a) Name of the donor,
 - (b) Address,
 - (c) Permanent account number (if available), and
 - (d) Aadhaar number (if available).

Therefore, the aforementioned rule necessitates the retention of not only the donor’s name and address but also their PAN and Aadhaar details in records, if available.

ONLY NAME AND ADDRESS TO BE PRODUCED

- 4.01** In the case of *Hans Raj Samarak Society v. Assft. DIT* [2011] 16 taxmann.com 103/133 ITD 530 (Delhi - Trib.), it was held that the assessee was not required to maintain anything more than the name and address of the donor as it prescribed in section 115BBC(3). This ruling is very significant as it clarifies the limitations of the AO to call for information or additional evidence in case of anonymous donation. Section 115BBC(3) provides that the receiver has an obligation to maintain the identity indicating the name and address of the donor and such other particulars as may be prescribed. No other particular has been prescribed under this provision or elsewhere in the Act or Rules. The Delhi ITAT ruled that the expression of a valid voluntary contribution has been defined in an exhaustive manner and, therefore, no other word can be read in section 115BBC(3) other than the words finding place therein.
- 4.02** However, in the case of *Shri Girraj Educational and Welfare Society v. ITO* [2012] 27 taxmann.com 89/[2013] 56 SOT 428 (Agra - Trib.) it was held that in view of failure of assessee-society to maintain proper records indicating names and address of donors, voluntary contributions received by it were rightly brought to tax as anonymous donations within meaning of section 115BBC.
- 4.03** In the case of *M/s. Ramadevi Memorial Charitable Trust v. The ACIT(E), Jaipur* [ITA No. 1023/Jp/2016, dated 7-2-2020] - ITAT Jaipur held that where proper name and address were not available and the donation were of identical amount of Rs. 5,000 the Assessing Officer was justified in taxing it as anonymous donation.
- 4.04** The ITAT Visakhapatnam Bench in the case of *Assistant Commissioner of Income Tax Vs. Siddhartha Academy of General & Technical Education* [2022] 141 taxmann.com 287 (Visakhapatnam - Trib.) held that where assessee-trust provided details of donors along with names and addresses and furthermore confirmation letters from donors were also provided to Assessing Officer in respect of donation received, mere absence of PAN in confirmation letters of donors would not give rise to suspicion that they were anonymous donations; maintenance of name and address details of contributors would be a sufficient document to establish identity of donors as prescribed under section 115BBC.

TAXABILITY OF ANONYMOUS DONATIONS

5.01 *Section 115BBC(1) provides as under:* 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 in excess of the amount referred to in sub-clause (A) or sub-clause (B) of clause (i), as the case may be.

5.02 Therefore, the following entities are liable to pay tax on the anonymous donation:

- (a) A trust or institution as referred to in Section 11;
- (b) University or educational institutions whose annual receipts do not exceed Rs 5 crore [Section 10(23C)(iiiad)];
- (c) University or educational institution whose annual receipts exceed Rs. 5 crore and it is approved by the Principal Commissioner or Commissioner. This does not include an university or educational institution which are financed, wholly or substantially, by the government [Section 10(23C)(vi)];
- (d) Hospital or medical institution whose annual receipts do not exceed Rs 5 crore [Section 10(23C)(iiiiae)];

- (e) Hospital or medical institution whose annual receipts exceed Rs. 5 crore and it is approved by the Principal Commissioner or Commissioner. This does not include a hospital or an institution which is financed, wholly or substantially, by the government [Section 10(23C)(via)];
- (f) Any fund or institution, established for charitable purposes and notified by the Central Government, having regard to the objects of the fund or institution and its importance throughout India or any State [Section 10(23C)(iv)];
- (g) Any trust or institution wholly for public religious purposes or wholly for public religious and charitable purposes and notified by the Central Government with a view to ensure that the income accruing thereto is properly applied for the objects thereof [Section 10(23C)(v)].

5.03 Hence, it should be noted that entities other than those specified above are not included in its scope. Specifically, educational and medical institutions that are substantially financed by the government (as defined under section 10(23C)(iiiab) and (iiiac)), as well as institutions that have been notified under section 10(46) & 10(46A) of the Income-tax Act, are exempt from the provisions of section 115BBC.

EXCLUSION FROM TAXABILITY

- 6.01** Section 115BBC(2) further provides that provision of anonymous donation shall also not apply to any donation received by:
- (i) any trust or institution created or established wholly for religious purposes;
 - (ii) 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.

SUMMARY OF EXCLUSIONS

- 7.01** Anonymous donations received by wholly religious institutions shall remain exempt from tax.

- 7.02** In the case of partly religious and partly charitable institutions, anonymous donations directed towards a medical or educational institution run by such entities shall be covered as anonymous donation though taxable only to the extent such donations exceed 5 per cent of total donations of such trust or institution or a sum of Rs. 1 lakh, whichever is more. Other donations to partly religious and partly charitable institutions shall remain exempt from the purview of this provision.
- 7.03** In the case of wholly charitable institutions, anonymous donations shall be taxable to the extent such donations exceed 5 per cent of total donations of such trusts/institutions or a sum of Rs. 1 lakh, whichever is more.
- 7.04** The above clause provides that anonymous donations received by religious and charitable trusts would be taxable if received with a specific direction that such donation is for any university, educational institution or medical institution. It is not clear how a specific direction can come from anonymity. Suppose such directions are valid without knowing the identity of the donor. In that case, a trust may also contend that the anonymous donations are restricted donations and therefore not a part of its income as they could not be treated as a voluntary contribution under section 12(1) or section 2(24)(iii).

CBDT'S CIRCULAR EXEMPTING PARTLY CHARITABLE AND PARTLY RELIGIOUS ORGANISATION

- 8.01** CBDT has issued an explanatory circular regarding section 115BBC No. 5/2010, dated 3-6-2010. The scope and effect of the amendments [w.e.f. 1-4-2010] made to section 115BBC have been explained in this circular. Further, it has been provided that donations to partly religious and partly charitable institutions shall remain exempt from taxation except anonymous donations directed towards a medical or educational institution run by such entities.

SCHEME OF TAXATION OF ANONYMOUS DONATIONS

- 9.01** The donations are taxable under this provision only if the amount of anonymous donations exceeds higher of the following limit:

- (a) Rs. 1 lakh; or
- (b) 5% of total donation received.

The tax shall be levied only on the amount which exceeds higher of the above referred limit.

PROVISIONS FOR TAXATION OF ANONYMOUS DONATIONS EXPLAINED BY CBDT CIRCULAR

10.01 The CBDT circular no. 14 dated 28-12-2006 explains the provisions of section 115BBC, as follows:

“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.

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. 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.”

TAXABILITY OF EXEMPTED PORTION OF ANONYMOUS DONATION

11.01 There was a clarifying amendment in the Finance (No. 2) Act, 2014, with regard to the computation of tax liability in the case of Anonymous Donations. The amendment provided that while computing the tax liability of the total income, instead of excluding

the entire amount of anonymous donations, only the amount in excess of 5% of total donations or Rs. 1 lakh, whichever is higher, should be deducted. This amendment removes the anomaly, as currently, anonymous donation upto Rs. 1 lakh or 5%, whichever is higher, is not subject to tax.

However, the exempted portion shall form part of income subject to application under section 11 of the Income Tax Act.

WHETHER A TAXABLE PORTION OF ANONYMOUS DONATIONS ARE SUBJECT TO CONDITIONS AS TO APPLICATION AND ACCUMULATION?

12.01 After the insertion of section 115BBC regarding taxation of anonymous donations, no amendment was made to sections 11 and 12, which create confusion about whether anonymous donations are subject to application and accumulation. However, a new sub-section (7) has been added to section 13, which provides that nothing contained in sections 11 or 12 shall operate to exclude anonymous donations from total income. The text is as under:

“(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.”

12.02 In other words, any portion of anonymous donations that is subject to taxation under section 115BBC cannot be exempted under the provisions of section 11. Therefore, such donations are subject to tax as per the guidelines specified under section 115BBC. As a result, the requirements related to the utilization and accumulation of income that are applicable to charitable organizations under section 11 would not apply to the taxable portion of anonymous donations. This means that the 85% mandatory application for charitable purposes would not be applicable to the taxable portion of anonymous donations. However, the exempted portion of anonymous donations would still be subject to the mandatory 85% application for charitable purposes.

WHETHER ANONYMOUS DONATIONS IN THE NATURE OF PROJECT DONATIONS ARE HIT BY SECTION 115BBC?

13.01 As discussed in preceding chapters, project donations are generally considered a part of income unless they can be shown to be non-voluntary and restricted funds. However, in order to demonstrate that a donation is intended for a particular project, it must be accompanied by specific instructions from the donor. This can be challenging in the case of anonymous donations, as it is difficult to prove that such donations are restricted and intended for a specific purpose.

13.02 In this regard, sub-section (2)(b) of section 115BBC creates further confusion which provides as under:

“(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.”

13.03 The aforementioned clause states that anonymous donations received by religious and charitable trusts will be subject to taxation if they are accompanied by specific instructions indicating that the donation is intended for a university, educational institution, or medical institution. However, it is unclear how specific instructions can be attributed to an anonymous donor.

13.04 Suppose such directions are valid without knowing the identity of the donor. In that case, a trust may also contend that the anonymous donations are restricted donations and, therefore, not a part of its income as they could not be treated as a voluntary contribution under section 12(1) or section 2(24)(iia).

13.05 However, specific direction from an anonymous donor may not be a legally tenable position either way. Therefore, sub-section (2)(b) of section 115BBC needs to be amended appropriately. Amidst the confusion and lack of clarity, it seems that anonymous donations, irrespective of the nature, would be hit by section 115BBC.

IF SECTION 13 IS VIOLATED, WHETHER ANONYMOUS DONATIONS WILL BE TAXED AGAIN?

- 14.01** The question arises whether anonymous donations would be taxed again in case there is a violation under section 13. A plain reading of section 13(1) and section 13(7) implies that anonymous donations have been excluded from the purview of sections 11 and 12. Any violation under section 13 results in a forfeiture of the exemptions available under sections 11 and 12. Under such circumstances, double taxation of anonymous donations does not look tenable as it does not enjoy any exemption under sections 11 or 12.
- 14.02** Apart from the above analysis, it has been held by Supreme Court on several occasions that income cannot be taxed twice. Double taxation is possible only if the Legislature has distinctly enacted it. In the case of *LaxmiPat Singhania v. CIT* [1969] 72 ITR 291, the Supreme Court observed that it is a fundamental rule that income cannot be taxed twice unless otherwise expressly provided. In another case of *Jain Bros. v. Union of India* [1970] 77 ITR 107, the Supreme Court observed that as such, there is no constitutional bar on double taxation, but for that, the legislature should expressly enact provision for such double taxation.
- 14.03** In light of the above case studies, in our opinion, anonymous donations, once taxed under section 115BBC, would not be subject to double taxation even in case of a violation under section 13.

ANONYMOUS DONATION IS DIFFERENT FROM UNACCOUNTED DONATIONS

- 15.01** Anonymous donation is different from unaccounted donation. In case of anonymous donation, the donations are on record but donors are not traceable. However, unaccounted donations may attract the provisions of section 13(1)(c). In the case of *Vidyavardhini v. Asstt. CIT, Central Circle-2, Thane* [2012] 20 taxmann.com 81/51 SOT 17 (Mum.) (URO), it was held that since trust is an artificial judicial person and has to act through trustees or anybody authorized by trustees, acts of trustees or person so authorized have to be considered as acts on behalf of trust. Therefore,

considering material on record and entire surrounding circumstances, it was to be held that unaccounted donations collected by Secretary were on instructions of trustees on behalf of trust and had been rightly assessed as income of assessee trust. It was further held that having regard to fact that donations were not accounted in books of assessee trust and had been used by trustees and secretary who were persons specified in section 13(3), provisions of section 13(1)(c) were applicable and exemption under section 11 would not be available.

ANONYMOUS DONATION CAN ATTRACT MONEY LAUNDERING ACT

16.01 It is worth noting that all non-governmental organizations (NGOs) and religious institutions have been brought under the ambit of the Prevention of Money Laundering Act (PMLA) 2002 through an amendment that was published in the Official Gazette on November 12, 2009. This means that it may not be feasible for these organizations to accept large anonymous donations since the PMLA mandates the disclosure of donor details, particularly in the case of foreign donations. As a result, religious organizations that are not covered under section 115BBC may also fall under the purview of the Money-Laundering Act, thereby making it necessary for them to adhere to the disclosure requirements stipulated by the Act.

16.02 The notification S.O. 1074(E) [F. NO. P-12011/12/2022-ES CELL-DOR], dated 7-3-2023, announces amendments to Rules 2, 3, and 9 of the Prevention of Money-Laundering (Maintenance of Records) Amendment Rules, 2023.

The Ministry of Finance, *vide* the above-mentioned notification, has recently issued amendments to the Prevention of Money-laundering (Maintenance of Records) Rules, which broaden the scope of compliance for non-government organisations (NGOs), politicians, and financial institutions. The gazette notification specifies several changes, such as the addition of a clause defining politically exposed persons (PEPs), as well as a requirement for banks, financial institutions, and intermediaries to register an NGO's details on the Darpan portal of NITI Aayog, if not previously done

16.03 The new rules require banks to maintain records on the nature and value of transactions carried out by individuals and NGOs, and also specify the procedures for sharing

this information, the duration for which the data will be retained, and the manner in which identity records of such clients will be maintained by banking companies, financial institutions, and intermediaries.

- 16.04** In addition, the rules impose additional data retention requirements on NGOs. Specifically, every banking company or financial institution must register the details of such a client on the DARPAN Portal of Niti Aayog, and if the records have not already been registered, they must be maintained for a period of five years after the business relationship between a client and a reporting entity has ended, or the account has been closed, whichever is later.

ASSESSING OFFICER CANNOT DECLARE A DONATION AS ANONYMOUS BY MERELY EXAMINING A FEW DONORS - CROSS-EXAMINATION IS ALSO NECESSARY

- 17.01** In the case of *CIT v. Geetanjali Education Society* [2008] 174 Taxman 440 (Raj.) it was held that the Assessing Officer cannot declare the donations as anonymous or bogus, as some of them were not examined nor those who were examined had been allowed to be cross-examined. Therefore, any donation given in favour of the society could not have been held to be bogus without examining the donors and subjecting them to cross-examination.

BURDEN OF PROOF IS ENTIRELY ON THE ASSESSEE TO ESTABLISH THE IDENTITY OF THE DONORS

- 18.01** The ITAT Bombay Bench in the case of *Madhavi Raksha Sankalp Nirmal Niketan v. Dy. CIT* [2017] 83 taxmann.com 316/165 ITD 627 (Mum. - Trib) that the onus as well burden of proof is entirely on the assessee to provide to the AO all relevant details as contemplated u/s 115BBC to the satisfaction of the AO as to compliance of section 115BBC and as to genuineness of the said donation and if the assessee failed to do so the entire transaction was hit by provisions of section 115BBC.

SMALL COLLECTION THROUGH DONATION BOXES IS NOT COVERED

- 19.01** The issue of anonymous donation was also considered by the ITAT, Amritsar Bench's decision in the case of *Dy. CIT v. All India Pingalwara Charitable Society* [2016] 158 ITD 410/67 taxmann.com 338 (Asr.- Trib.) where the ITAT held that the intent of section 115BBC was to tax unaccounted money but it was never intended to tax small and petty collections through donation boxes.
- 19.02** In the case of *Gurudev Siddha Peeth, Shrish Thakkar v. ITO, Ward-1 (1), Kalyan 59* taxmann.com 400 (Mumbai - Trib.) held that in the case of a religious or charitable trust it is generally not only difficult but also not possible to maintain such type of record. A perusal of the entire section 115BBC shows that the provisions of said section are not applicable to the institutions like that of assessee trust as the same are meant to check the inflow of unaccounted/black money into the system with a *modus operandi* to make out as a part of the accounts of the institutions like university, medical institutions where the problem relating to the receipt of capitation fees, etc. is generally highlighted. Under such circumstances, we do not find any justification in taxing the offerings received in the hundis/donation boxes as income of the assessee under section 115BBC.
- 19.03** In the case of *ITO (E)-I(1), Mumbai v. Bombay Panjrapole* [ITA No. 5414/M/2010, dated 25-7-2012] ITAT Mumbai held that in case of a charitable trust engaged in maintaining gaushalas and veterinary hospital for treatment of wounded and sick animals and birds, the donations received from public through donation boxes could not be taxed under 115BBC.

AFFIDAVIT AND VIDEO FOOTAGE ADMISSIBLE AS EVIDENCE FOR DONATION

- 20.01** The High Court of Delhi in the case of *The Commissioner of Income Tax (Exemptions) v. Patanjali Yogpeeth (NYAS)* ITA 886/2017 held that donations collected through

sale of coupon from various yoga camp shall not be treated as anonymous based on the affidavits of the President of the camp and the video footage available. In other words, even in the absence of the name and address of the donor an affidavit by the organisation and corroborative evidence shall be admissible.

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