AUDIT OF CHARITABLE ORGANISATION

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1. INTRODUCTION :

1.1 The very 'Foundation' of our Chartered Accountancy profession is the 'trust' in the eyes of the 'society'. It is a common observation that most of us are so much obsessed with the thoughts about Income Tax that we often tend to overlook our basic function, namely, accounts and audit.

1.2 The marked difference between commercial accounting and that for Charitable Institutions is that the former places emphasis on proper ascertainment of profits while the latter is more generally concerned with exercising control over expenditure so as to conform to the stipulated norms and to the objectives of the said institution to which it relates. Public money is involved in the Public Trusts in two ways –

a. Direct contributions from the people at large.
b. Tax revenue foregone by the government in view of the exemptions.

2. PROVISIONS OF THE BOMBAY PUBLIC TRUSTS ACT, 1950 (BPT Act) :

The direct provisions governing the accounts and audit are contained in Chapter V. By virtue of an amendment in the year 1972, the heading of the chapter is 'Budget, Account and Audit'. The relevant sections are Section 31A to 34.

Section 31A was introduced in 1972 making it compulsory for a trustee to prepare and submit a budget to the C.C (Rule 16A and Format in Schedule VIIA).Interestingly, unlike the Companies Act, 1956 (which casts obligations on the 'company'), the BPT Act refers directly to the 'Trustee' and not the Trust. Section 31A for example states that 'A trustee shall submit……..'. There is no indication of collective responsibility.

The prescribed form of the audit report expressly requires the auditor to verify whether the budget was submitted. Moreover, in the process of audit, the budget may provide a useful clue for a comparative study, just as the accounts are compared with previous year's figures. However, unlike schedule VI to the Companies Act, 1956, the prescribed formats under BPT Act (schedule VIII for Balance Sheet and schedule IX for Income & Expenditure Account) do not make it necessary to furnish the corresponding figures for the previous year.

Section 32 It prescribes the maintenance of accounts and records. There is nothing special about it. The duty is three-fold i.e. to keep accounts, to deliver accounts and to vouch accounts. The accounts will cover –

(A.a) all receipts,
(A.b) movable and immovable properties,
(A.c) all encumbrances created on the trust properties;
(A.d) all payments, and
(A.e) alienations made on behalf of the trust.

Circular No.105 dt. 01.10.1958, requires that the 'movables of value' such as ornaments, gold, silver, utensils, bullion and other valuable articles should be valued after every 10 years and a foot-note as to such value should be given in the balance sheet. These movables do not include shares, securities and other movables, representing trust investments meant purely for return of dividend, interest, etc. This applies only to religious trusts. Trustees should take care of adequately insuring such valuables.

Circular No.97 dt.13.09.1956 states that in the ordinary course, the accounts of public trusts conducting different institutions (e.g. schools, branches etc.) should be consolidated. However, it is permissible to file the separate accounting returns if filed at one time. However, the demand for contribution u/s 58 will be raised on the entire amount of contribution assessable on the total income of the principal trust (including its constituent units).

Section 33 talks of Balancing and Auditing of accounts. It says that the accounts shall be balanced every year on the 31st day of March or such other day as may be fixed by the C.C. Under these powers, the CC had fixed three other dates – viz. 31st December, 30th June and Diwali. Other sub-sections deal with auditor's duties and rights. There is a power vested in the CC to direct a special audit; and also to exempt certain trusts from audit.Rule 17 of the BPT Rules provides for the maintenance of accounts. Audit should be completed within 6 months from the date of completion of accounting year.

Section. 34 deals with Auditor's duty to prepare balance sheet and to report irregularities, etc. This is rather noteworthy. It is a common belief that the auditee concern should prepare and draw up the final accounts. However, this section clearly casts this burden on the Auditor. It is the duty of the auditor to prepare a balance sheet and income and expenditure account and deliver it with his report, to the trustee[Sec. 34(1)]. It is also a belief that the auditor is required to forward the accounts, etc to the CC. However, Section 34 requires the auditor to forward the accounts, etc to the CC only if CC directs him to do so. Sub section 1A then states that it is the duty of the trustee to file a copy of audited accounts to the CC. Quite intriguingly, Rule 21 states that the Auditor shall forward a copy of balance sheet, etc. to the CC within a fortnight of the audit. There is an apparent contradiction and I believe that the Rules cannot override the provisions of the Act.

The following categories of persons can demand the accounts –

a) a beneficiary,
b) person having interest in the trust as defined in Sec.2(10) and
c) Charity Officers.

In the case of a trust, the trustees can appoint the auditors whereas in the case of a society registered under the Societies Registration Act, 1860, the members will appoint the statutory auditors.

Chapter V-A was inserted in the year 1972 and it contains very important provisions affecting the accounts and audit.

Sec. 35 deals with restrictions on trustees' power regarding investment of trust money.

Sec. 36 deals with the restrictions on trustees' power of alienation of immovable property of public trust.

Sec. 36A states the general powers and duties of trustees and expressly restricts their power to borrow money on behalf of the trust.

Sec. 36B prescribes the maintenance of register of movable and immovable properties.

It is the duty of the auditor to examine and verify these matters and report on the same.

It is also worthwhile noting the provisions of Chapter VI – especially sections 37 and 38 which are self explanatory.

3. BOMBAY PUBLIC TRUSTS RULES, 1951 :

3.1 The rules are fairly simple. Rule 19 prescribes the format of the Audit Report. Unlike, Section 227 of the Companies Act the report is not in the nature of averments and expression of opinions as to the maintenance of account, true and fair view etc. The report is in the form of a questionnaire. It is relevant to note that ICAI has suggested a new format of report with effect from 05.04.2002 (Refer Annexure I for Specimen Report). The basic question is whether the general audit report as in the case of limited companies is required to be given for trusts as well. Or whether, the report prescribed in the BPT Rules will suffice?

3.2 The other relevant Rules are :

Rule 16A	:	Submission of Budget.
Rule 17	:	Maintenance of Accounts u/s 32
Rule 18	:	Certain powers for facilitating audit.
Rule 21	:	Time for audit and submission of audit report, etc u/s 34
Rule 24A	:	Maintenance of registers of movable and immovable properties u/s 36B

4. AUDITOR'S ROLE vis-à-vis a TRUST :

4.1 Apart from the normal audit of accounts and report thereon under the BPT Act and IT Act, the Auditor is also expected to perform the following verifications/functions :

4.2 Certifying the statement of contribution (Form IX C) payable to the CC under the BPT Act. Care should be taken that in respect of specific programmes or fund raising activities, only the surplus therefrom should be included in the income. Contribution is payable on `income' and not on `receipts'. All establishment expenses, however, are not deductible.

4.3 Certifying the `Corpus donations ' in the context of the contribution payable u/s 58. For this, the format of the corpus direction letters should be carefully prepared and verified. Interests on such donations are however, liable for contribution even if the same may be taken to Balance Sheet directly. However, by virtue of sub-clause iii of clause II of Schedule IX-C (Contribution Statement) Interest on Sinking Fund and Depreciation Fund is deductible from the amount liable for contribution. A format for such certificate has been prescribed by CC.(Refer Annexure II)

4.4 Issuing ‘Utilisation Certificate’ for various grants received. Here, the Auditor must carefully study the terms of the grant.

At the same time, the normal accounting principle cannot be lost sight of such as capital and revenue.

In practice, trusts are often required to show the spending to qualify themselves for the grant. However, actual funds are not available for disbursal. This may result into the showing of an overdrawn bank balance although there is no formal overdraft facility.

4.5 An auditor is often expected to guide the trustees as to the routine secretarial work (minutes, etc) and submission of forms (like Change Report in Schedule III, Change in the Constitution, etc.)

4.6 One interesting point in respect of the contribution u/s 58, is that a trust is exempted from payment of contribution if its objects are exclusively medical or exclusively secular education or for benefit of women, scheduled tribes ,etc. However, it is denied exemption if it has combined objects of medical and education, etc (!)

4.7 Apart from answering the prescribed questionnaire of audit report, the auditor is also expected to point out the weaknesses in administration, controls; etc. and any special matters which he feels necessary to report. Subsequent year's audit report has to take cognisance of such shortcomings pointed out by previous audit report.

5. **ACCOUNTING STANDARDS :**

This is an exercise of recent origin. A list of accounting standards, which are mandatory or relevant to a charitable organisation, is given in Annexure III. It is a vast topic in itself, which may require a separate seminar. I would mention only a few selected issues -

AS 12 deals with accounting for Government Grants which also include grants from international agencies. It became applicable for accounting period commencing on or after 01.04.1994. Every kind of Government assistance may not be a \`Grant'?

The capital approach means that the Government grant should be treated like shareholders' funds; while as per the Income Approach, grants are treated as income over a systematic period.

Decision should be taken on the basis of the characteristics of each grant.

Non-monetary grants (in kind) should be accounted for at a nominal value, even if there is no cost.

Grants received for specific fixed assets also can be accounted for in two ways viz.

a. as a reduction of cost of fixed assets; or
b. crediting it to \`Deferred Government Grant' account and credit to

Revenue on a systematic, rational basis, parallel to depreciation. Grants related to non-depreciable assets are credited to capital reserve.

It is to be noted that, almost all accounting standards will be applicable if a trust is carrying on a business.

6. **FOREIGN CONTRIBUTION REGULATION ACT, 1976 (FCRA) :**

Provisions of Foreign Contribution Regulation Act, 1976 and Rules relating to Trusts–

6.1 Receipt & Payment A/c needs to be prepared and filed alongwith FC-3 and Balance Sheet with FCRA Division, Ministry of Home Affairs, Government of India, Lok Nayak Bhavan, New Delhi – 110 003.

6.2 Double Entry Book Keeping is a must even though otherwise Trust maintains account on Single Entry Book Keeping system.

6.3 For Accounting of donations in kind such as articles, vehicles, medicines etc. the accounts must be maintained in form FC-6 prescribed in Rule 8.

6.4 In respect of foreign securities the accounts shall be maintained in Form FC-7.

6.5 Since prior permission is obtained in Form FC-1(A) or in FC-8 for accepting foreign donations and bank account is specified therein, if organisation wants to change the designated bank account then prior permission should be obtained by making a fresh application in from FC-8, justifying the reasons necessitating such a change.

6.6 Financial Year of the trust can be any of the four dates mentioned in the paper but for the purpose of FCRA records it should be 1st April to 31st March.

6.7 Even though accounts of a Trust need not be audited for incomes received below Rs. 5,000/-, FCRA does not give such an exemption and therefore even a small amount received would need Auditor's Certification in form FC-3.

6.8 Change in name, address, registration, nature or objects of the trust need to be informed to Ministry of Home Affairs within 30 days of change. No form is prescribed.

6.9 Change of 50% or more of the office bearers need to be informed and association should not accept foreign contribution till the permission is granted by the Ministry for the change.

6.10 Time limit for filing FC-3 is 31st July.

6.11 Filing false or delayed return can result into Central Government requiring the trust to obtain prior permission for each subsequent foreign donation. Similar action can be taken if the foreign contribution is received in a bank account other than one authrorised by Central Government. Imprisonment upto 1 year or a fine upto Rs. 1,000/- can be imposed.

6.12 If any association assists another association which is not registered in accepting foreign contribution then donor and donee can be prosecuted with maximum penalty of imprisonment upto 5 years.

6.13 If an association is registered under FCRA starts printing or publishing or editing etc. a registered newspaper or magazine, then it automatically comes under prohibited category.

6.14 Central Government has a powers to get the accounts audited, can seize currency, articles etc. by confiscation.

6.15 The Act has not prescribed any time limit for granting or rejecting the registration application.

6.16 More than one bank account is not generally permitted to be opened.

6.17 The money should be spend from the designated bank account and it can not be transferred to other account for expenditure.

6.18 Interest earned on FCRA designated bank account or FD made should be shown in foreign contribution account only.

6.19 Sale proceeds of the assets acquired out of foreign contribution should be credited to the designated bank account only and not to any other account.

7. **MISCELLANEOUS ISSUES :**

7.1 Under the BPT Act, the prescribed proportion of investments in Banks and other permissible securities at present is 50% each. The permissible securities are declared as ‘Trust Securities’ by the State Government. A temporary deviation from this proportion is not viewed very seriously, having regard to the practical aspects. A list of approved banks and permissible securities is available with the CC. The investments are governed by these statutes notwithstanding anything contained in the instrument of the trust.

7.2 In Maharashtra, all Trusts registered under the Societies Registration Act, 1860 are required to be registered simultaneously under the BPT Act. Therefore, the provisions of BPT Act become applicable to them.

7.3 A useful reference may be made to the ‘Technical Guidance to Audit of Educational Institutions’ – Research Committee of the ICAI.

7.4 In case the Charitable Institution is registered as a Section 25 – Company, the provisions of the Companies Act, 1956 will apply accordingly.

8. **Conclusion :**

The Account and Audit of the Charitable institution is often a thankless job and these assignments are not considered as remunerative ones. On the contrary, even an inadvertent lapse may invite serious trouble to the organization as well as to the professional. Exemptions given to the charitable institutions are substantial. Hence, they are expected to observe a financial discipline. The penalties for defaults are disproportionately harsh. The law helps only the diligent. Carrying out these assignments with knowledge and sincerity is our profession’s significant contribution to the social work.

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ANNEXURE I

AUDIT REPORT SPECIMEN

Auditor's Report of_____________, Mumbai for the year ended 31st March, _____

[Annexure to Report Under Section 33(2) and Rule 19 of The Bombay Public Trusts Act, 1950]

We have audited the attached Balance Sheet of ______________, as at 31st March, _______and also the Income and Expenditure Account for the year ended on that date annexed thereto. These financial statements are the responsibility of the Trust management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in India. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statements presentation. We believe that our audit provides a reasonable basis for our opinion.

In addition to our report attached in the prescribed form under relevant sections and rules of the Bombay Public Trusts Act and subject to notes on the above.

We report that:

(i) We have obtained all the information and explanations, which to the best of our knowledge and belief were necessary for the purpose of our audit.

(ii) In our opinion, proper books of account as required by law have been kept by the trust so far as appears from our examination of those books

(iii) The Balance Sheet and Income and Expenditure Account dealt with by this report are in agreement with the books of account;

(iv) In our opinion, the Balance Sheet and Income and Expenditure Account dealt with by this report comply with the accounting standards to the extent applicable.

(v) In our opinion and to the best of our information and according to the explanation given to us, the said accounts read with the remarks attached herewith give the information required by the Bombay Public Trusts Act, 1950 in the manner so required and give a true and fair view in conformity with the accounting principles generally accepted in India :

   (i) in case of the Balance Sheet, of the state of affairs of the Trust as on March 31, ____ and

   (ii) in the case of Income & Expenditure Account, surplus/deficit of the Trust for the year ended on that date.

Chartered Accountants

Place :
Date:

ANNEXURE II

CORPUS CERTIFICATE AS PRESCRIBED BY THE CHARITY COMMSSIONER

To,

The Charity Commissioner,

C E R T I F I C A T E

We, hereby certify that Rs._______/- (Rs. In words) received towards trust fund during the accounting year ________ have been credited to the said fund and are shown as such in the balance sheet of the trust as on ______ .

We further confirm that we have checked the correspondence between the donors and the trust in respect of the abovementioned contributions according to the provisions of Sect. 58 (explanation 2) of the Bombay Public Trusts Act, 1950.

We also certify that the said amount of Rs.________/- (Rs. In words) have been deposited in the bank account of the trust.

Date : Chartered Accountants
Place :

ANNEXURE III

ACCOUNTING STANDARDS

Following Accounting Standards are applicable to Charitable Trusts (non- profit making).

A.S. Number	Subject
AS – 1	Disclosure of Accounting Policies
AS – 4	Contingencies and Events Occurring After the Balance Sheet Date
AS – 5	Prior Period and Extraordinary Items and Changes in Accounting Policies Revised – Net Profit or Loss for the period, prior period items and changes in Accounting Policies
AS – 7	Accounting for Construction Contracts
AS – 8	Accounting for Research and Development
AS – 9	Revenue Recognition
AS –10	Accounting for Fixed Assets
AS – 11	Accounting for the Effects of Changes in Foreign Exchange Rates
AS – 12	Accounting for Government Grants
AS – 13	Accounting for Investments
AS – 15	Accounting for Retirement Benefits in the Financial Statements of Employers
AS – 16	Borrowing Cost
AS – 18	Related Party Disclosures
AS – 19	Leases
AS – 26	Intangible Assets

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