



THE CHAMBER OF TAX CONSULTANTS

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INDIRECT TAX STUDY CIRCLE MEETING ON 12th December, 2019

“Case Studies on Charitable trusts (GST).“

Chairman : Mr. Shailesh Sheth, Advocate

Group Leader : Mr. Ishaan Patkar, Advocate

Case Studies on Charitable trusts (GST)

In each of the following cases, determine whether the assessee is carrying on “business”. Additionally, assuming that “business” is being carried on, determine whether the exemption under Notification No.12/2017 (GST) is available:

- (1) ISKCON is a body formed for spreading the message of Srila Prabhupada and Krishna devotion. It sells books and CDs on the life and value of Shri Krishna and to cultivate vedic morals and values.

- (2) ICAI is formed by an Act of Parliament for regulating the profession of Chartered Accountancy as well as for imparting education and ensuring that the standard of entry into the profession is maintained.

(3) XYZ is a NGO formed for the purposes of

(4) Jain Students Hostel is formed for the purpose of assisting needy students to stay in the city of Mumbai to complete their education. Students have to leave the hostel as soon as education is completed.

(5) Atheists' Society of India was formed by A, B, C and D after losing faith in the idea of God due to rising onion prices. The main object of this association is to spread the belief that there is no God and the world is governed by science.

(6) Bureau of Indian Standards is a statutory body formed under the Bureau of Indian Standards Act, 1986. The preamble and powers and functions of the bureau are set out herein-under:

“Preamble

An Act to provide for the establishment of a Bureau for the harmonious development of the activities of standardisation, marking and quality certification of goods and for matters connected therewith or incidental thereto.

POWERS AND FUNCTIONS OF THE BUREAU

10.(1) The Bureau may exercise such powers and perform such duties as may be assigned to it by or under this Act and in

particular, such powers include the power to establish, publish and promote in such manner as may be prescribed the Indian Standard, in relation to any article or process;

recognise as an Indian Standard, in such manner as may be prescribed, any standard established by any other Institution in India or elsewhere, in relation to any article or process;

specify a Standard Mark to be called the Bureau of Indian Standards Certification Mark which shall be of such design, and contain such particulars as may be prescribed to represent a particular Indian Standard;

grant, renew, suspend or cancel a licence for the use of the Standard Mark;

levy fees for the grant or renewal of any licence;

make such inspection and take such samples of any material or substance as may be necessary to see whether any article or process in relation to which the Standard Mark has been used conforms to the Indian Standard of whether the Standard Mark has been improperly used in relation to any article or process with or without a licence;

seek recognition of the Bureau and of the Indian Standards outside India on such terms and conditions as may be mutually agreed upon by the Bureau with any corresponding institution or organisation in any country;

establish, maintain and recognise laboratories for the purposes of standardisation and quality control and for such other purposes as may be prescribed;

undertake research for the formulation of Indian Standards in the interests of consumers and manufacturers;

recognise any institution in India or outside which is engaged in the standardisation of any article or process or the improvement of the quality of any article or process;

provide services to manufacturers and consumers of articles or processes on such terms and conditions as may be mutually agreed upon;

appoint agents in India or outside India for the inspection, testing and such other purposes as may be prescribed;

establish branches, offices or agencies in India or outside;

inspect any article or process, at such times and at such places as may be prescribed in relation to which the Standard Mark is used or which is required to conform to the Indian Standard by this Act or under any other law, irrespective of whether such article or process is in India or is brought or intended to be brought into India from a place outside India;

co-ordinate activities of any manufacturer or association of manufacturers or consumers engaged in standardisation and in the improvement of the quality of any article or process or in the implementation of any quality control activities;

perform such other functions as may be prescribed.”

- (7) Goud Saraswat Brahman Association is a caste association formed for the upliftment and advancement of the Goud Saraswat Brahman caste. The Association is a trust formed to manage movable and immovable properties of the GSB community and to promote unity and brotherhood amongst them.

- (8) The United Grand Lodge of Ancient Free and Accepted Masons had formed a “Grand Lodge” for oversight of the many freemason lodges in the country. The function of the Grand Lodge was to ensure co-ordination and administration of freemasonry.

The nature and principles of freemasonry are herein-under:

Freemasonry was not itself a religion. There was no requirement in masonry that a candidate should have any particular religious belief, but he was

required to declare his belief in a Supreme Being. Masons might not in the lodge discuss religion other than universal religion and belief in God. Freemasonry had a religious foundation or basis and freemasons were actuated by religious motives in joining the craft and carrying on its activities. The principles of freemasonry were brotherly love, relief and truth which formed the subject of the solemn admonition to every person being initiated into freemasonry quoted above. At an earlier stage of the initiation ceremony the virtues of benevolence and charity, which followed as a consequence from those principles, were emphasized in an address to the candidate as a distinguishing characteristic of a freemason's heart. All ceremonies opened and closed with prayer and constant references were made to the “Volume of the Sacred Law” which in English lodges was the Bible, but elsewhere might be some other sacred book (e.g., the Koran) which had to be open throughout the ceremonies. Lodges were entitled to appoint an officer designated as a chaplain, whose function was to recite the prayers, but not every lodge did so. While there was no limitation regarding religion or religious sects, the principles of (in England) the Bible, or other sacred book in whichever country freemasonry was practised, and a belief in God were fundamental. As a general description of the basis of freemasonry, it was an organization devoted to advancing the acceptance and practice of basic religious principles which might be particularized as man's relations to God, to his neighbour and to himself. It was based entirely on a belief in God and a reverence for his work which was fundamental in its tenets; while not itself a religion, its objects and practices were religious in that they were directed to furthering a religious attitude to God and to one's fellow men for fellowship and service, on a basis common to all or most civilized religions.”

Other issues:

(9) Is a Section 25 company a “club, society or association” as understood in the definition of business?

(10) Is housing society formed for aged persons and carrying on “business”? Can lease of premises by such a society taxed?
