

CIRCULAR No. 222

SUBJECT- Exemption of payments of contribution with effect from 1st April 1977 of Rs. 5,000 or less.

At present all public trust having a Gross Annual Income or as the case may be a Gross Annual Collection or receipt, of Rs.5000 or less are totally exempted from payment of Contribution with effect from 1st April 1977 under Government Order, Law and Judiciary Department No. BPT 1376/(170)-(c)-VI dated 30th June 1977 during the period prior ot 1st April 1977 similar exemption was being enjoyed by all public trusts having a Gross Annual Income of Rs.2000 or less under Government Notification. Law and Judiciary Department No.1903/P, dated 24th January 1967.

Some of the Regional Officers of this Organisation however, have sought clarification on the following points :-

(i) While computing Gross Annual Income of public trusts for the purpose of such total exemption from payment of contribution, whether Gross Annual Income includes deductions allowed under B.P.T, Rule 32(3);

(ii) Whether the expression "Assessable amount" appearing in proviso (iii) to Section 2 of the Bombay Public Trusts (Validating Provisions and Amendment) Act, 1977 are used in order to denote part of the income for a fraction of a year for the purpose of assessment and whether such amount for a part of the year is chargeable for contribution even if such assessable amount works out to Rs.2000 or less for the period prior ot 1st April 1977 and aRs.5,000 or less for the period from 1st April 1977.

The points are clarified as under :-

(i) The meaning of the expression "Gross Annual Income" used in sub-section (I) of Section 58 of the Bombay Public Trusts Act,1950 is made very clear in explanation 2 below the said section 58 which lays down inter alia that Gross annual Income does not include and deductions which the State Government may allow by rules. Thus for determining Gross Annual Income Limit, deductions allowed by rule 32(3) should be excluded and if after excluding all such deductions, Gross Annual Income works out to Rs.2,000 or less for the years prior to 1s5 April 1977 and Rs.5,000 or less for the years from 1st prior to 1st April 1977, such public truss are not liable for Contribution;

(ii) Where the assessable amount for part of a year as contemplated by proviso (iii) to Section 2 of aforesaid amending Act, of 1977 works out to Rs.2,000 and less, and Rs.5,000 and less respectively, in case of Public Trusts having Gross

Annual Income above Rs.2000 prior to 1st April 1977 and above Rs.5,000 after 1st April 1977 exclusive of deductions under rule 32(3) , such public trusts are liable for Contribution, if the total gross income of all such parts forming one accounting year exceeds the prescribed limit of Rs.2,000 and Rs.5,000 respectively. The contribution is however leviable on the average amount for the part of the year in proportion to the period for which the /Contribution is leviable.

While dealing with cases covered in para (ii) above it may be borne in mind that while applying proviso(iii) to rule 32(which is introduced by the Amending Act in question, no contravention of Section 3(2) of the Amending Act is made by the instructions given above because:-

(a) such assessment is not on the income earned for the period covered by Section 3(2) of the Amending Act but only an artificial method of arriving at averages is provided for determining the income of the period the time of which is assessable; and

(b) therefore the assessment is on a deemed figure of income of the assessable period and is arrived at in the manner prescribed by the amended rule.

For example:-

I.	Accounting Returns for the year ended 30-9-1977.	
II.	Receipts between 1st October 1976 and 31st March 1977.	15,000
	Receipts between 1st April 1977 to 30th September 1977.	<u>15,000</u>
	Total	30,000
	Less deductions under rule 32 for the whole year ..	<u>6,000</u>
	Balance ..	24,000
	Divided by 12 months ..	<u>2,000</u>
		12
		2,000
	Therefore average gross income per month ..	2,000
	Multiplied by No. of assessable months 1st April 1977 to 30th September 1977.	2,000
		<u>x 6</u>
		12,000
	Assessable Gross Annual Income Chargeable for Contribution @2%	12,000

All the Regional Officers should follow the above procedure uniformly while assessing the Contribution under Section 58 of the Bombay Public Trusts Act,1950. The pas cases, if any, decided contrary to the above procedure should

not however by reopened Suo-Motu. If any party makes a motion the question should be decided according to Law.

Dated 19th August 1978

M.S.VAIDYA.
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