

CIRCULAR No.54

SUBJECT : Bombay Public Trusts Rules, 1951 , Rule 32(3) application of
– to Dharmada Trusts .

Assistant Charity Commissioner, Belgaum, reports that an objection has been filed before him by a Dharmada trustee against the demand notice issued by him, claiming, deduction of Rs.15,101 paid by the trustee to the K.E.Boards Arts College, Dharwar, on the ground that the amount spent on education can not under the law be charged to contribution. This claim seems to have been made on the basis of rule 32(3)(i), which provides that in calculating the gross income or receipts for the purpose of assessing contribution the following deduction shall be allowed -

“in the case of a public trust having secular education imparted by a recognized institution as one of its purposes, the portion of the gross income spent for that purpose.”

2. The Assistant Charity Commissioner is of the opinion that rule 32(3) is not applicable to Dharmada Trusts and that no deduction can be allowed to Dharmada trust on any account while assessing contribution. He contends that in rule 32(1) in the case of Dharmada trusts the sums charged and collected as dharmada in any year are purposely termed as ‘gross annual collection or receipts’ and not “ gross annual income “ as in the case of other trusts. According to him, this indicates that there is no question of income whatsoever in the case of Dharmada trusts. He further contends that his interpretation is borne out by the proviso to section 58 also which lays down that contribution should be fixed on the basis of “gross annual collection or receipts “ of Dharmada and “gross annual income” of other public trusts. He argues that rule 32(3) deals with various items of deduction which are to be allowed in calculating gross annual income or receipts for the purpose of contribution. According to him, though the word “ receipts” appears in the first part of rule 32(3) it has no reference to “ collection or receipts “ of a Dharmada trust, but has reference to the income of registered trusts from lands (items (ix) and (x) of sub rule (3) or from securities, debentures etc. (item (xi) of sub rule (3). He holds the view that the list of items of deductions enumerated in rule 32(3) does not contain reference to any kind of disbursement made by a Dharmada trust.

3. The view expressed by the Assistant Charity Commissioner is not correct. While interpreting sub rule (3) of rule 32, rule 32 should be read as a whole and sub rule (3) should be read with sub rule (1). Sub rule (1) provides that every public trust shall pay annually to the Public Trusts Administration Fund a contribution at the rate of 2 percent of its gross annual income or, where the public trust is a Dharmada trusts its annual collection or receipts, except, a trust exclusively for the purpose of secular education imparted by a recognized institution or exclusively for the purpose of medical relief, Public Trusts exclusively for secular

education, imparted by a recognized institution or for medical relief are thus totally exempted from payment of contribution under rule 32(1). Public trust as defined under Section 2(13) includes a Dharmada. There can, therefore, be no doubt that if a Dharmada trust is exclusively for the purpose of secular education imparted by a recognized institute or exclusively for medical relief, it will be totally exempted from payment of contribution in view of rule 32(1). Coming to sub rule (3) items (i) & (ii), we find that the principle underlying sub Rule (1) is extended under this sub rule to public trusts having secular education imparted by a recognized institution or medical relief as one of the purposes of that trust. Sub rule (3) provides that in the case of a public trust, the portion of gross income spent for secular education imparted by a recognized institution or medical relief will in calculating gross income or receipts be deducted for the purpose of assessing contribution. The intention underlying sub rules (1) & (3) appears to be to grant exemption from contribution in respect of amounts spent on secular education imparted by a recognized institution or medical relief. It can not be reasonably argued that the intention underlying rule 32(1) was to grant complete exemption to every public trust including Dharmadaya when the public trust is exclusively for secular education imparted by a recognized institution or exclusively for medical relief but under rule 32(3), it was intended to make a distinction between a Dharmada trust and any other public trust. The words "in the case of a public trust" appearing in sub rule (3) is interpreted in the manner suggested by the Assistant Charity Commissioner., it will lead to inconsistency between sub rule (1) and sub rule (3). It is a fundamental rule of interpretation of statutes that while interpreting two provisions of the same statute, an interpretation which leads to harmony and consistency between the two provisions should be followed. In this connection attention is invited to the following passages, at pp. 44-45 of Interpretation of Indian Statutes by Jagdish Swarup –

"It is unreasonable to impute to the Legislature, inconsistent intents upon the same general subject matter. What it has clearly said in one part, must be treated as the best evidence of what it intended to say in the other, and if the clear language be in accordance with the plain policy and purview of the whole statute, there is the strongest reason for believing that the interpretation of a particular part inconsistently with that would be a wrong interpretation. Where two coordinate sections are apparently inconsistent, as effort must be made to reconcile them and one must be read as a qualification of the other so that same effect furthering the intention of the Legislature may be given to each"

"The true meaning of any passage in a statute is that which best harmonises with the context and with every other part and which promotes in the fullest manner the policy and the objects of the Legislature and accordingly the construction which produces the greatest harmony and the least inconsistency between different parts of the same statute should prevail".

In view of what is stated above, the only reasonable interpretation that can be put on rule 32(3) is that no distinction can be made between a Dharmada trust and any other trust while allowing deductions under the said sub rule. Regional Officers should while dealing with such cases interpret sub rule (3) of rule 32 in the manner stated in para 3 of this circular.

Dated : 16th May, 1953

D.R.PRADHAN
Charity Commissioner, Bombay.