
Paper Name : NGO MANAGEMENT
Paper Code : 18BPO63C
Class : III BA POLITICAL SCIENCE
Faculty : Mr P, SELVAKUMAR
Contact Number : 9688188993

UNIT- 4

PUBLIC TRUST ACT :-

- **This Act may be called the Indian Trusts Act, 1882, and it shall come into force on the first day of March, 1882. Local extent.**
- **It extends to the whole of India except the State of Jammu and Kashmir] and] the Andaman and Nicobar Islands,**
- **But the Central Government may, from time to time, by notification in the Official Gazette, extend it to the Andaman and Nicobar Islands or to any part thereof.**
- **Savings But nothing herein contained affects the rules of Mohammedan law as to , waif or the mutual relations of the members of an**
- **Undivided family as determined by any customary or personal law, or applies to public or private religious or charitable endowments, or to trusts to distribute prizes**

- **Taken in war among the captors; and nothing in the Second Chapter of this Act applies to trusts created before the said day.**
- **Repeal of Enactments The Statute and Acts mentioned in the Schedule hereto annexed shall, to the extent mentioned in the said Schedule, be repealed,**
- **In the territories to which this Act for the time being extends.**
- **Interpretation : clause, trust ,a “trust” is an obligation annexed to the ownership of property, and arising out of a confidence reposed in and accepted by the owner, or**
- **Declared and accepted by him, for the benefit of another, or of another and the owner.**
- **Author of the trust”; “trustee”; “beneficiary”; “trust property”; “beneficial interest”; “instrument of trust”.**
- **The person who reposes or declares the confidence is called the “author of the trust.**
- **The person who accepts the confidence is called the “trustee”; the person for whose benefit the confidence is accepted is called the “beneficiary”**
- **The subject-matter of the trust is called “trust property” or “trust money”.**
- **The “beneficial interest” or “interest” of the beneficiary is his right against the trustee as owner of the trust property; and the instrument, if any, by which the trust is declared, is called the “instrument of trust”; “breach of trust”.**

- **A breach of any duty imposed on a trustee, as such, by any law for the time being in force, is called a “breach of trust”; “registered”, expressions defined in Act 9 of 1872.**
- **And in this Act, unless there be something repugnant in the subject of context, “registered” means registered under the law for the registration of documents for the time being in force;**
- **A person is said to have “notice” of a fact either when he actually knows that fact or when, but for wilful abstention from inquiry or gross negligence,**
- **He would have known it, or when information of the fact is given to or obtained by his agent, under the circumstances mentioned in**
- **The Indian Contract Act, 1872, section 229, and all expressions used herein and defined in the Indian Contract Act, 1872,**
- **Shall be deemed to have the meanings respectively attributed to them by**
- **Breach of trust a breach of any duty imposed on a trustee, as such, by any law for the time being in force, is called a “breach of trust .**
- **Registered”, expressions defined in Act 9 of 1872.And in this Act, unless there be something repugnant in the subject of context,**
- **Registered” means registered under the law for the registration of documents for the time being in force a person is said to have “notice” of a fact either when he actually knows that fact or when, but for wilful**

abstention from inquiry or gross negligence,

- **Lawful Purpose a trust may be created for any lawful purpose.**
 - **The purpose of a Trust is Lawful unless it is forbidden by law, or is of such a nature that, if permitted,**
 - **It would defeat the provisions of any law, or (c) is fraudulent, or**
 - **Involves or implies injury to the person or property of another, or**
 - **The Court regards it as immoral or opposed to public policy.**
 - **Every trust of which the purpose is unlawful is void. And where a trust is created for two purposes, of which one is lawful and the other unlawful and the two purposes cannot be separated, the whole trust is void.**
- Explanation.**
- **In this section, the expression “law” includes, where the trust property is immovable and situate in a foreign country, the law of such country.**

FORMATION OF TRUST :-

- **The trustee is the legal owner of the property in trust, as fiduciary for the beneficiary or beneficiaries who is the equitable owner of the trust property.**
- **Trustees thus have a fiduciary duty to manage the trust to the benefit of the equitable owners.**
- **They must provide a regular accounting of trust income and expenditures.**

- **Trustees may be compensated and be reimbursed their expenses. A court of competent jurisdiction can remove a trustee who breaches his/her fiduciary duty.**
- **Some breaches of fiduciary duty can be charged and tried as criminal offences in a court of law.**
- ❖ **A trustee can be a natural person, a business entity or a public body. A trust in the United States may be subject to federal and state taxation.**
- ❖ **A trust is created by a settlor, who transfers title to some or all of his or her property to a trustee, who then holds title to that property in trust for the benefit of the beneficiaries.**
- ❖ **The trust is governed by the terms under which it was created. In most jurisdictions, this requires a contractual trust agreement or deed.**
- ❖ **It is possible for a single individual to assume the role of more than one of these parties, and for multiple individuals to share a single role.**
- ❖ **For example, in a living trust it is common for the grantor to be both a trustee and a lifetime beneficiary while naming other contingent beneficiaries.**
- ❖ **Trusts have existed since Roman times and have become one of the most important innovations in property law. Trust law has evolved through court rulings differently in different states, so statements in this article are generalizations understanding the jurisdiction-specific case law involved is tricky.**
- ❖ **Some U.S. states are adapting the Uniform Trust Code to codify and harmonize their trust laws, but state-specific variations still remain.**
- **An owner placing property into trust turns over part of his or her bundle of rights to the trustee, separating the property's legal ownership and control from its equitable ownership and benefits.**

- **This may be done for tax reasons or to control the property and its benefits if the settlor is absent, incapacitated, or deceased.**
- **Testamentary trusts may be created in wills, defining how money and property will be handled for children or other beneficiaries.**
- **While the trustee is given legal title to the trust property, in accepting the property title, the trustee owes a number of fiduciary duties to the beneficiaries.**
- **The primary duties owed include the duty of loyalty, the duty of prudence, the duty of impartiality.**
- **A trustee may be held to a very high standard of care in their dealings, in order to enforce their behaviour.**
- **To ensure beneficiaries receive their due, trustees are subject to a number of ancillary duties in support of the primary duties, including a duties of openness and transparency ,duties of recordkeeping, accounting, and disclosure.**
- **In addition, a trustee has a duty to know, understand, and abide by the terms of the trust and relevant law. The trustee may be compensated and have expenses reimbursed, but otherwise must turn over all profits from the trust properties.**

Taxation of NGO:

- **Charitable or Religious trusts are constituted to promote the welfare of public and hence,**
- **Income tax law provides exemptions to any income derived from property held under such trusts if it is not misused or diverted to non-charitable objects.**
- **The sections 11, 12, 12A, 12AA and 13 constitute a complete code governing the grant or withdrawal of registration and its cancellation,**

- **Providing exemption to income, and also the conditions under which a charitable trust or institution needs to function in order to be eligible for exemption.**
- **They also provide for withdrawal of exemption either in part or in full if the relevant conditions are not fulfilled.**

Registration u/s 12AA:

- ❖ **It is important to note here that notwithstanding the fact that trust, society and section 8 companies are registered as per their respective acts,**
- ❖ **The registration under section 12AA is necessary to claim exemption under Income Tax Act.**
- ❖ **Trust, Society and Section 8 Company can seek registration u/s 12AA to claim exemption under provisions of Income Tax Act'1961 if certain conditions are satisfied.**
- ❖ **Application for registration is to be made online through e-filing account in Form 10A with CIT Exemptions and it should be accompanied by the prescribed list of documents.**
- ❖ **The order granting or refusing registration shall be passed before the expiry of six months from the end of the month in which the application was received.**

Registration u/s 80G:

- ❖ **The charitable organizations also need to apply for registration u/s 80G of the income tax act.**
- ❖ **It provides deduction while computing the total income in the hands of the donor.**
- ❖ **If the registration is granted under section 12AA, it does not mean that section 80G approval is to be given i.e. registration under section 12AA will not provide automatic approval under section 80G.**

- ❖ **These both registrations are completely separate. Further, section 80G applies only to charitable trusts or institution.**
- ❖ **It does not apply to religious trust or institutions.**
- ❖ **No deduction shall be allowed to the donee under section 80G in respect of donation of any sum exceeding INR 2,000 unless such sum is paid by any mode other than cash. Rule 11AA of the Income Tax Rules'1962 provides procedure for seeking approval under section 80G.**
- ❖ **The application for approval of any institution shall be made online through e-filing account in form no. 10G.**

- ❖ **There is no requirement of renewal of registration under section 80G i.e. the perpetuity of approval has been provided until the commissioner withdraws the exemption i.e. there is no need for periodical renewal under present law.**
