

CCLNPO &
Pune Branch of WIRC
of the Institute of Chartered
Accountants of India



Half Day Seminar on Trusts

April 26, 2025

**Compliances by Public
Charitable Trusts**

Topics Discussed



- **Trusts and Types of Trust**
- **Public Trusts**
- **The Maharashtra Public Trusts Act, 1950**
- **Compliances under MPTA**
- **NON-Compliances under MPTA**
- **The Foreign Contribution (Regulation) Act, 2010**



Trusts & Types of Trusts

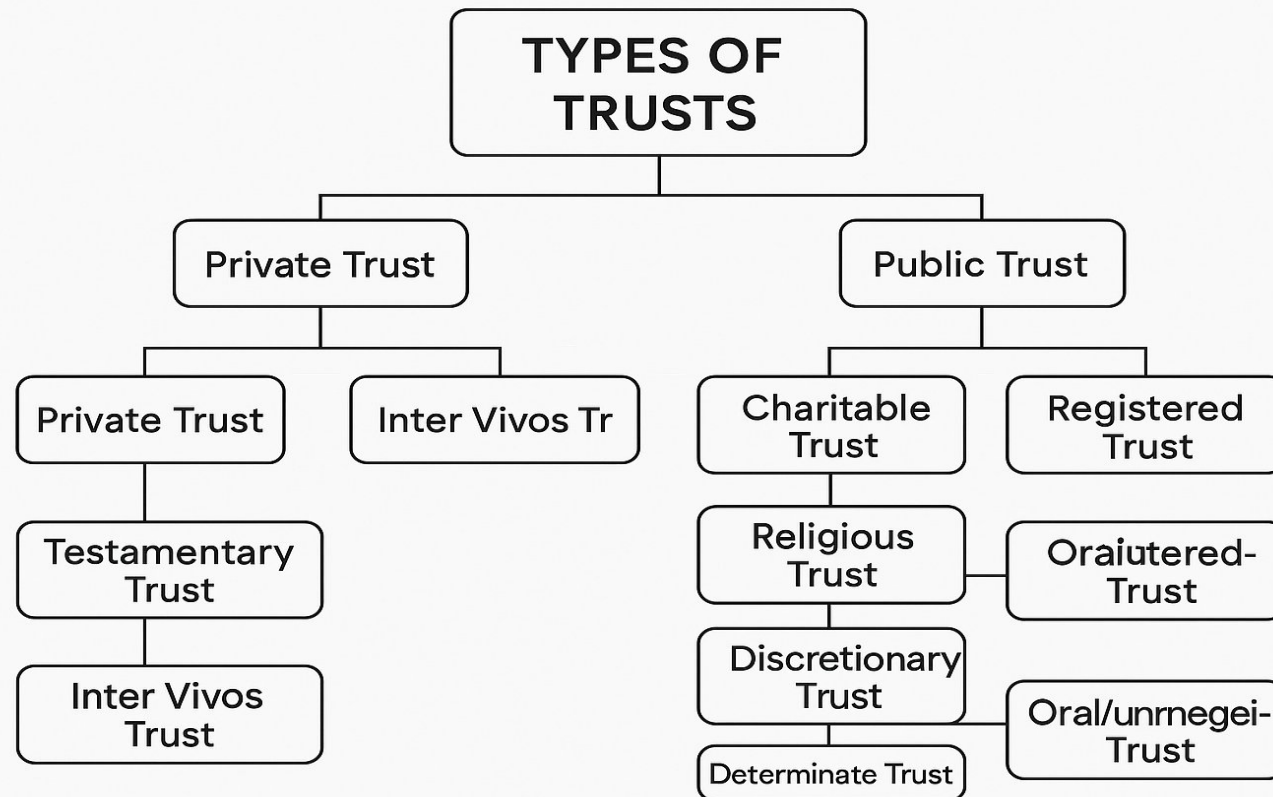
Trusts

A **trust** is a legal arrangement in which a person (called the **settlor** or **author**) transfers property to another person (called the **trustee**) for the benefit of a **third person** or **persons** (called the **beneficiaries**). The trustee holds and manages the property for the beneficiaries as per the terms laid down in the **trust deed**.

The Indian Trusts Act, 1882 defines a **trust** as (Section 3)

“**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

Types of Trusts



Types of Trusts

PRIVATE TRUST

A private trust benefits specific individuals or families. Governed by the Indian Trusts Act, 1882, it is not open to the public and generally lacks tax exemptions for charitable purposes.

TESTAMENTARY TRUST

Created through a Will, a testamentary trust becomes effective only after the death of the settlor. It's often used for estate planning and protection of beneficiaries like minors or dependents.

INTER VIVOS TRUST

An inter vivos trust is created during the settlor's lifetime. It may be revocable or irrevocable and is often used for asset protection, succession planning, or gifting with

Types of Trusts

PUBLIC TRUST

A public trust is formed for the benefit of the public at large, typically for charitable or religious purposes. It is governed by state laws like the Maharashtra Public Trusts Act, 1950.

CHARITABLE TRUST

Charitable trusts promote education, relief to poor, medical aid, or general public utility. Eligible for 12A and 80G exemptions, they must apply income for public charitable objectives only.

RELIGIOUS TRUST

Formed for promoting religious purposes like running temples, mosques, or churches. These may be exempt under tax laws but not eligible for 80G if meant for a specific religion.

Types of Trusts

DISCRETIONARY TRUST

In a discretionary trust, trustees have the authority to decide how to distribute income or assets among beneficiaries. Beneficiaries are not entitled to fixed shares, offering flexibility to settlor.

DETERMINATE TRUST

Also called a specific trust, it clearly defines the beneficiaries and their respective shares. The income is taxed in the hands of the beneficiaries under Section 161 of the IT Act.

REGISTERED TRUST

A registered trust is officially recorded with the appropriate authority, such as the Charity Commissioner. Registration offers legal recognition, especially important for claiming tax exemptions and owning property.

ORAL / UNREGISTERED TRUST

These trusts are created without written documents. Though valid under law, especially for private trusts, they lack legal enforceability and are ineligible for exemptions under Income Tax and public law frameworks.



Public Trusts

This session addresses Compliance Obligations

Public Trust

by

PUBLIC CHARITABLE TRUSTS

Charitable or Religious Trusts

Section 11 Income from property held for charitable or religious purposes.

11. (1) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income—

(a) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of 15% of the income from such property;

Charitable or Religious Trusts

Section 12(AB) Cancellation of Exemption

- (4) (a) the Principal Commissioner or Commissioner has noticed occurrence of one or more specified violations during any previous year
- (ii) pass an order in writing, cancelling the registration of such trust or institution, after affording a reasonable opportunity of being heard, for such previous year and all subsequent previous years, if he is satisfied that one or more specified violations have taken place;

Charitable or Religious Trusts

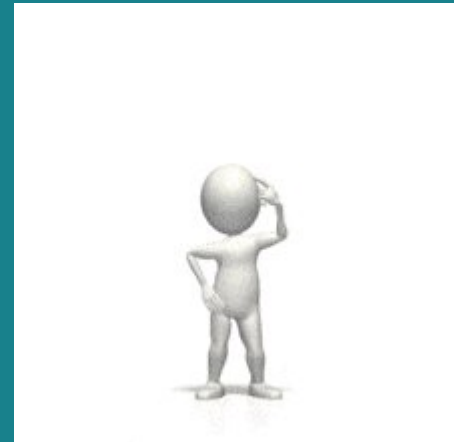
Section 12(AB)(4) "specified violation"

Explanation.—For the purposes of this sub-section, the following shall mean "specified violation",—

....

(f) the trust or institution has not complied with the requirement of any other law, as referred to in item (B) of sub-clause (i) of clause (b) of sub-section (1), and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality

The Maharashtra Public Trusts Act, 1950





This session addresses
Compliance Obligations By
PUBLIC CHARITABLE TRUSTS

Only Under

Public Trust

The Maharashtra Public Trusts Act, 1950

and

The Maharashtra Public Trusts Rules, 1951

Public Trust

Section 2 (13)“**public trust**” means an express or constructive trust for either a public religious or charitable purpose or both and includes a temple, a math, a wakf, church, synagogue, agiary or other place of public religious worship a dharmada or any other religious or charitable endowment and a society formed either for a religious or charitable purpose or for both and registered under the Societies Registration Act, 1860;

Registration Mandatory

This Act governs public charitable and religious trusts throughout the state of Maharashtra. It provides a framework for their creation, registration, administration, and dissolution.

It's mandatory for all public trusts in Maharashtra to register under this Act. Trustees must apply for registration within three months of the trust's creation, providing details outlined in Schedule II of the Act, along with the trust deed and other necessary documents.

It must be Noted that:

In order to Claim Tax Exemption for a Public Charitable Trust Two Registrations are mandatory:

1. Under The Maharashtra Public Trusts Act, 1950

and

2. Under The Income tax Act, 1961

Registration
Mandatory

Compliances under MPTA



Registration of Public Trust (Section 18, Rule 6)

- **Legal Provision:** Section 18 of the MPT Act; Rule 6 of the Maharashtra Public Trusts Rules, 1951
- **Applicability:** All public trusts, whether created by trust deed or otherwise, must be registered.
- **Due Date:** Within 3 months from the date of creation of the trust.
- **Form:** Schedule II

Registration of Public Trust **(Section 18, Rule 6)**

- **Required Documents:**
- Application in the prescribed form (Schedule II)
- Instrument of trust (Trust Deed)
- Affidavit
- Consent letters from trustees
- No Objection Certificate (NOC) for the registered address
- Notice published in a newspaper
- List of trustees with identity proofs

Acquisition of property holdings (Section 22, Rule 13(2B))

- **Property Acquisition:** – e.g. trust acquires new immovable property (purchase, gift, donation) or significant movable property
- **Within 90 days of acquisition or change in property** (same timeline as above for reporting changes) Annual updating of the Property Register must also reflect this within 3 months of year-end
- File a **Change Report (Schedule III)** noting the addition/change, **plus a Memorandum of Change in Property (Schedule III-A)** for immovable property changes Rule 13(2B) requires Schedule III-A to be accompanied by certified copies of the title document (sale deed, gift deed, etc.) for the new property. (In practice, Charity Commissioner offices may accept just Schedule III for property changes, but the law prescribes filing III-A as well.)

Reporting Changes in Trust Particulars (Section 22, Rule 13)

- **Legal Provision:** Section 22 of the MPT Act; Rule 13 of the Maharashtra Public Trusts Rules, 1951
- **Applicability:** Any change in the entries recorded in the register, such as change in trustees, property, or address. (any change in entries recorded in the Register of Public Trusts)
- **Due Date:** Within 90 days from the date of occurrence of the change.
- **Forms:**
 - Schedule III for general changes.
 - Schedule III-A for changes in immovable property.

Reporting Changes in Trust Particulars (Section 22, Rule 13)

Required Documents:

- Meeting notice and agenda
- Resolution passed by the trustees
- Consent letters of incoming trustees
- Affidavit of outgoing trustees
- Relevant property documents (for immovable property changes)

Reporting Other changes (Section 50A, 50B, 55)

- **Other Changes** Sections 50A, 50B (scheme changes); e.g. alteration of the trust's objects or scheme, amalgamation with another trust, or Section 55 dissolution of the trust.
- ***Timeline varies:*** These actions generally require **prior approval of the Charity Commissioner or Court** before implementation. For instance, any proposal to **amend the trust's objects or scheme** must be approved by the Charity Commissioner under Section 50A (after inquiry) before it takes effect. There is no fixed "deadline," but changes should not be acted upon until approval is obtained.

Reporting Other changes (Section 50A, 50B, 55)

- **Application for Scheme change or Amalgamation** – A proposal is submitted to the Charity Commissioner under Sec. 50A, detailing the changes and reasons. The Charity Commissioner may publish notices and conduct hearings before sanctioning a scheme or amalgamation. For **dissolution** of a trust (if allowed), an application to court or Charity Commissioner under Sec. 55 is required to direct the disposition of remaining trust property.
- Implementing such fundamental changes without approval is illegal. Any altered trust deed or scheme made without Section 50A sanction is **void**.

Submission of Annual Budget (Section 31A, Rule 16A)

- **Legal Provision:** Section 31A of the MPT Act; Rule 16A of the MPT Rules, 1951
- **Applicability:** Trusts with annual income exceeding ₹5,000 (religious trusts) or ₹10,000 (other trusts).
- **Due Date:** At least one month before the commencement of each accounting year.
- **Form:** Schedule VII-A
- **Required Documents:**
 - Budget showing probable receipts and disbursements for the upcoming year
 - Provisions for carrying out the trust's objectives
 - Maintenance and preservation plans for trust property

Maintenance of Accounts (Section 32, Rule 17)

- **Legal Provision:** Section 32 of the MPT Act; Rule 17 of the MPT Rules, 1951
- **Applicability:** All public trusts.
- **Due Date:** Accounts should be balanced on March 31st each year.
- **Forms:**
 - Schedule VIII (Balance Sheet)
 - Schedule IX (Income and Expenditure Account)
 - Schedule IX-C (Statement of income liable to contribution)
- **Required Documents:**
 - All receipts and payments
 - Movable and immovable properties
 - Encumbrances and alienations

MPTA, 1950 Section 32. Maintenance of accounts.—

Section 32

(1) Every trustee of a public trust shall keep regular accounts.

(2) Such account shall be kept in such form as may be approved by the Charity Commissioner and shall contain such particulars as may be prescribed.

Registered public trusts are legally obligated to maintain accurate and complete accounts of their assets, including both movable and immovable property. These accounts must be balanced annually and audited by a qualified auditor. Additionally, trusts with annual incomes exceeding a certain threshold must submit a budget to the Registrar.

NO METHOD OF ACCOUNTING HAS BEEN PRESCRIBED

Income tax Act, 1961: Section 11.

Income from property held for charitable or religious purposes.

Explanation.—For the purposes of this section, any sum payable by any trust or institution shall be considered as application of income in the previous year in which such sum is actually paid by it (irrespective of the previous year in which the liability to pay such sum was incurred by the trust or institution according to the method of accounting regularly employed by it):

Provided that where during any previous year, any sum has been claimed to have been applied by the trust or institution, such sum shall not be allowed as application in any subsequent previous year.

Expenses Qualify for Deduction **ONLY ON PAYMENT**

Annual Audit of Accounts (Section 33, Rule 19)

- **Legal Provision:** Section 33 of the MPT Act; Rule 19 of the Maharashtra Public Trusts Rules, 1951
- **Applicability:** Trusts with gross annual income exceeding ₹15,000.
- **Due Date:** Within 6 months from the end of the accounting year (i.e., by September 30th).
- **Form:** Schedule X
- **Required Documents:**
 - Auditor's report
 - Balance Sheet and Income and Expenditure Account
 - Statement of income liable to contribution

34. Auditor's duty to prepare balance sheet and to report irregularities etc.—

(1) It shall be the duty of every auditor auditing the accounts of a public trust under section 33 to prepare a balance sheet and income and expenditure account and to forward a copy of the same along with a copy of his report to the trustee, and to the Deputy or Assistant Charity Commissioner of the region or sub-region or to the Charity Commissioner, if the Charity Commissioner requires him to do so.

(1A) It shall be the duty of the trustee of a public trust to file a copy of the balance sheet and income and expenditure account forwarded by the auditor before the Deputy or Assistant Charity Commissioner of the region or sub-region or to the Charity Commissioner, if the Charity Commissioner requires him to do so.

34. Auditor's duty to prepare balance sheet and to report irregularities etc.—

(2) The auditor shall in his report specify all cases of irregular, illegal or improper expenditure, or failure or omission to recover moneys or other property belonging to the public trust or of loss or waste of money or other property thereof and state whether such expenditure, failure, omission, loss or waste was caused in consequence of breach of trust, or misapplication or any other misconduct on the part of the trustees, or any other person.

Investment of Trust Funds (Section 35)

- **Legal Provision:** Section 35 of the MPT Act
- **Applicability:** All public trusts.
- **Permissible Investments:**
 - Fixed deposits in Scheduled Banks (nationalised/cooperative)
 - Government of India securities
 - Units of mutual funds or bonds approved U/s 11(5) of the IT Act
- **Required Documents:**
 - - Resolution of trustees for investment
 - - Investment proposal and due diligence note
 - - Confirmation letters/FD receipts from banks

Alienation of Property (Section 36)

- **Requirement:** Prior approval required for any sale, lease, gift, or exchange of immovable property by a public trust.
- **Submission Procedure:** Application must be made to the Charity Commissioner with following documents:
- **Checklist:**
 - - Valuation Report by registered valuer
 - - Draft Agreement or MOU
 - - Justification note for proposed transaction
 - - Resolution passed by the board of trustees
 - - Title deed or ownership document
 - - Affidavit affirming the purpose and compliance
 - - NOC from any other stakeholders (if applicable)

Borrowing (Section 36A)

- **Requirement:** Prior permission of Charity Commissioner is necessary for borrowing against trust property.
- **Submission Procedure:** The application must include the amount to be borrowed, purpose, justification, and proposed repayment schedule.
- **Checklist:**
 - - Resolution of trustees authorising borrowing
 - - Project report or need analysis
 - - Loan agreement draft
 - - Collateral security documents (if any)
 - - Repayment plan with source of funds
 - - Statement of existing liabilities and borrowings

Property Register (Section 36B, Rule 24A)

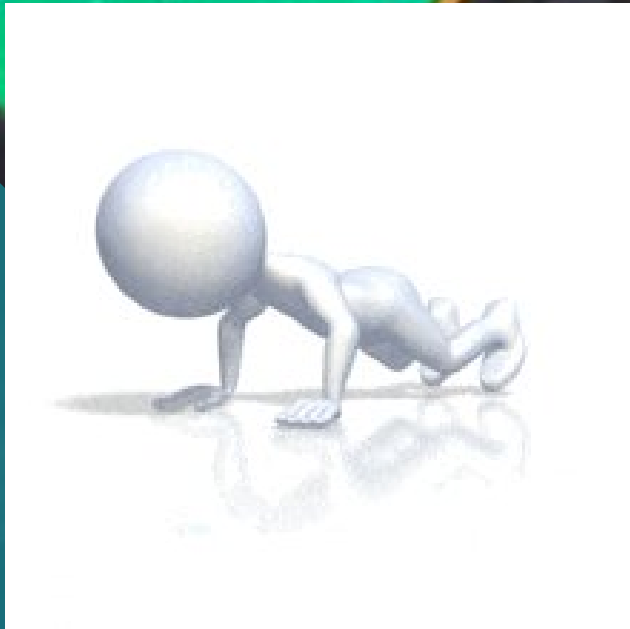
- Requirement: Maintain and annually update a register of immovable and movable property using Schedule X-AA.
- Submission Procedure: The register should reflect acquisitions, disposals, and encumbrances with detailed particulars.
- Checklist:
 - - Schedule X-AA properly filled
 - - Separate entries for land, furniture, books, vehicles, etc.
 - - Updated ownership and valuation data
 - - Supported by bills/invoices/agreements
 - - Signed and verified by trustees annually

Contribution Returns (Section 58, Rule 24A)

- Requirement: Every trust (except fully exempt ones) must file return declaring net income and pay contribution as per Schedule IX-C.
- Rate currently 2% of adjusted gross income
- Submission Procedure: Filed annually along with audit report, within six months of financial year-end.
- Checklist:
 - - Schedule IX-C form certified by Chartered Accountant
 - - Reconciliation of income from audited I&E Account
 - - Proof of contribution payment
 - - Covering letter and computation note

Maintenance of Property Register – (Section 36B, Rule 24A)

- **Requirement:** Register of all trust properties (movable & immovable)
- **Every trust must Yearly update** the register and get verified initially.
- **Updated every year within 3 months of the date of annual account balancing** (Typically by June 30 if financial year ends March 31.)
- **Schedule X-A** (format for property register prescribed by the Rules). The register should detail all immovable and significant movable assets (with descriptions, values, etc.). Trustees must sign and verify the register annually, and any changes in properties should be noted and reported to the authorities (via change report)
- **The auditor** must confirm whether the register is properly maintained and note any defects in the audit report Trustees are required to rectify deficiencies within 3 months of the audit report



NON-COMPLIANCES UNDER MPTA

Failure or Delay in Compliance by Charitable Trusts and Consequences

Sr. No.	Compliance Requirement	Relevant Section / Rule	Failure or Delay	Consequences / Penalty
1	Registration of Trust	Section 18	Failure to register within time	Cannot claim benefits under law; may attract penalties U/s 66; Trust treated as unregistered.
2	Filing Change Report	Section 22; Rule 13	Not filing within 90 days of change	Penalty U/s 66: Fine up to ₹10 per day till filing; Change may not be legally recognized.

Failure or Delay in Compliance by Charitable Trusts and Consequences

Sr. No.	Compliance Requirement	Relevant Section / Rule	Failure or Delay	Consequences / Penalty
3	Submission of Annual Budget	Section 31A; Rule 16A	Not submitting before financial year starts	Penalty U/s 66; Notice from Charity Commissioner to comply; Possible adverse inference.
4	Maintenance of Books of Accounts	Section 32; Rule 17	Not maintaining prescribed books	Penalty under Section 66; Can lead to prosecution U/s 68; Risk of cancellation of registration in extreme cases.

Failure or Delay in Compliance by Charitable Trusts and Consequences

Sr. No.	Compliance Requirement	Relevant Section / Rule	Failure or Delay	Consequences / Penalty
5	Filing of Annual Accounts	Section 33; Rule 18	Failure to file within prescribed time (usually 6 months from year-end)	Fine U/s 66; Attachment of property in severe cases; Non-compliance notice from Charity Commissioner.
6	Audit of Accounts	Section 33(2); Rule 19	Not getting accounts audited within time (usually 6 months)	Penalty U/s 66; Show-cause notice; May result in surcharge proceedings against trustees.

Failure or Delay in Compliance by Charitable Trusts and Consequences

Sr. No.	Compliance Requirement	Relevant Section / Rule	Failure or Delay	Consequences / Penalty
7	Investment of Trust Funds improperly	Section 35	Investing funds contrary to prescribed modes	Trustees liable personally; Loss to Trust to be recovered from trustees; Possible prosecution.
8	Alienation of Trust Property (sale, mortgage, lease) without prior approval	Section 36	Unauthorized sale, lease, mortgage, etc.	Transaction voidable; Trustees personally liable; Penal action U/s 36(2).

Failure or Delay in Compliance by Charitable Trusts and Consequences

Sr. No.	Compliance Requirement	Relevant Section / Rule	Failure or Delay	Consequences / Penalty
9	Borrowing funds without permission	Section 36A	Unauthorized borrowing	Trustees personally liable for repayment; Penal consequences similar to U/s 36.
10	Failure to maintain Property Register (Schedule X-AA)	Section 36B; Rule 24A	Not maintaining or updating Property Register annually	Fine U/s 66; Disqualification of Trustees; Adverse findings in inspections.

Failure or Delay in Compliance by Charitable Trusts and Consequences

Sr. No.	Compliance Requirement	Relevant Section / Rule	Failure or Delay	Consequences / Penalty
11	Filing of Contribution Returns (Form IX-C)	Section 58; Rule 32	Failure to file within time	Demand notice; Penalty + interest on unpaid contribution; Recovery as arrears of land revenue.
12	Non-compliance with Charity Commissioner's directions	Sections 41E, 41F	Failure to comply with lawful directions	Action U/s 68; Penalty; Proceedings for removal of Trustees.

Failure or Delay in Compliance by Charitable Trusts and Consequences

Sr. No.	Compliance Requirement	Relevant Section / Rule	Failure or Delay	Consequences / Penalty
13	General Breach of Trust or Negligence	Section 41D	Mismanagement, negligence or breach of duty	Surcharge Proceedings; Recovery of loss from trustees personally; Removal from trusteeship.

- **Section 66:** Is a general penal section. Imposes fines for non-filing, non-reporting, and non-compliance with procedural requirements.
- **Section 68:** Deals with prosecution for offences under the Act — can lead to fines and even imprisonment depending on gravity.
- **Section 41D:** Charity Commissioner has power to initiate surcharge proceedings against negligent or defaulting trustees.



The Foreign Contribution (Regulation) Act, 2010

Objective of FCRA

The Foreign Contribution (Regulation) Act, 2010 regulates:

- **Acceptance and utilization of foreign contributions or foreign hospitality**
- **Ensures such contributions are not used for activities detrimental to national interest**
- **Applies to charitable trusts, societies, religious organizations, NGOs, and Section 8 companies**



Key Definitions

<u>Term</u>	<u>Meaning</u>
Foreign Contribution	Donation, delivery, or transfer of any currency, security, or article from a foreign source
Foreign Source	Includes foreign governments, international agencies (e.g., UN), foreign companies, individuals
Person under FCRA	Includes individuals, HUFs, associations, companies, trusts, and societies

FCRA Compliances

- **FCRA Registration or Prior Permission**

Any trust intending to receive foreign donations must obtain either FCRA registration (long-term) or prior permission (case-specific) from the Ministry of Home Affairs.

- **Opening of FCRA Bank Account**

FCRA contributions must be received only in the SBI New Delhi Main Branch (NDMB) as mandated under the new rules. A separate bank account must be opened for this purpose.

FCRA Compliances

- **Annual Return – Form FC-4**

Trusts receiving foreign contributions must file Form FC-4 annually by 31st December of the year following the financial year. It must include audited statements and donor details.

- **Quarterly Disclosure on Website**

Details of foreign contributions (donor-wise) must be uploaded on the trust's official website every quarter in the prescribed manner.

FCRA Compliances

- **Utilization of Funds**

Foreign funds must be used only for the purposes mentioned in the FCRA registration and must not be diverted or invested elsewhere.

- **Prohibitions under FCRA**

- **Political parties and their office bearers cannot receive foreign contribution**
- **Government servants, judges, media persons, and legislators are also prohibited**
- **Foreign contribution cannot be used for speculative business or investment**

Questions?





Thank you

*It was a
CA C. V. Chitale's
presentation*

