

THE FOREIGN CONTRIBUTION (REGULATION) BILL, 2006

Preface

The Foreign Contribution (Regulation) Bill, 2006 was introduced in Rajya Sabha on 18th December, 2006.




It was passed on to the Parliamentary Standing Committee on Home Affairs for examination.

The Committee issued a press communiqué on 09th February, 2007 inviting views/suggestions on the Bill to which the Committee received a large number of memoranda.


The Committee held meetings with the Home Secretary, Govt. of India, and various Representative Organizations. It has come up with a draft report by taking clause-by-clause representation of the Bill.

Observations/Recommendations

The observations/Recommendations of the Standing Committee on the Bill are reproduced below:

-  In the Bill, the definition of “Foreign Source” includes Indian Companies with more than fifty percent of foreign holding. The Representative Organizations had requested for the exclusion of such Companies from the definition of Foreign Source. It has been upheld by the Committee as well since such foreign holding is permissible under FDI and FII norms.
-  The Committee has also recommended that Municipal Councils and Panchayati Raj Institutions should be covered in the definition of “Legislature”
-  The Bill prohibits Foreign Contribution receipts in certain cases and at the same time also specifies Foreign Contribution receipts which are exempt from such prohibitions.

The Representative Organizations as well as the Committee has noted that the Bill does not specifically exclude the receipt of foreign scholarship or stipend by Indian citizens studying in India or foreign academic institutions, from the prohibitions contained in the Bill. The FCRA Act, 1976 had specific provisions in this regard. The Committee has recommended an amendment in the Bill so that it specifically excludes the foreign scholarship receipts from such prohibitions.

-  The Bill prohibits organizations of a Political nature from accepting Foreign Contribution. The power to declare an Organization to be one of a Political nature rests with the Central Government. The organization so declared may make a representation to Central Government within thirty days from the date of notice, giving reasons as to why it should not be declared an organization of Political nature. However, the Bill does not put any time-limit on Central Government by which they have to settle the representation. Also, there is no provision in the Bill that gives an organization a right to appeal against the decision of Central Government.

The Representative Organizations have therefore asked for the time bound post-decisional hearing after an organization is declared to be one of a Political nature. The Committee has recommended that a provision to appeal against decision

given by Central Government in this regard be inserted and a time frame may be provided within which the Government has to take a decision in the cases where a representation is made by the organization.

- ◆ The Bill prohibits acceptance of any Foreign Hospitality by member of a Legislature or a Judge or an office-bearer of a Political party or a Government Employee or employee of any other body controlled by Government, except with prior permission.

The Committee has recommended for a more clear definition on “Foreign Hospitality” which should state the status of person, i.e., in official or personal capacity. The Committee has therefore suggested that the words “when on official visit” should be added after the words “a person” in the definition of “Foreign Hospitality”. Likewise, the restriction on accepting foreign hospitality should apply when one is travelling to a foreign country in one’s official capacity.

- ◆ Regarding the prohibition imposed by the Bill on the transfer of foreign contribution to other non-registered persons, the Committee has recommended that to safeguard the interests of the smaller NGOs working in the remotest parts of the country, there should be a provision by which the larger or mother NGO can seek permission and clearance for transfer of funds to smaller organizations and thereby exempt the smaller NGOs from registration or seeking prior approval.

- ◆ The Bill restricts the use of Foreign Contribution on Administrative purposes to the extent of fifty percent. The concerns were raised by Representative Organizations regarding definition of “Administrative expenses” and the ceiling of fifty percent on utilization of funds for administrative expenses. The Committee has recommended that the term “Administrative Expenses” be clearly defined. However, it has endorsed the ceiling of fifty percent to meet administrative expenses.

- ◆ The RBI has suggested that the cancellation of permission to receive foreign contribution may be advised through the website of the Ministry of Home affairs to avoid any delay in communication in this regard. The Ministry has agreed to consider the suggestion at the time of framing the rules.

- ◆ One major concern raised by the Representative Organizations was that the Bill does not prescribe any time limit by which the Central Government has to dispose of an application for registration or prior permission. Also, the Bill requires the Certificate of registration to be renewed after every five years and an application for renewal should be made within six months before the expiry of period of certificate. However, no provision is made for the scenario where application for renewal is submitted but no intimation is received about renewal or refusal by the expiry date.

This has been dealt with in detail and the Committee has recommended that a period of ninety days may ordinarily be fixed for taking a decision on grant of certificate or giving prior permission. In case of delay, beyond the normal period of ninety days, the Central Government should record the reasons for delay. Likewise, the time limit of ninety days from the date of application made may be fixed for renewal of registration.

- ◆ The Bill requires the Bank or Authorised persons to report to Specified Authority about the amount of Foreign Remittance, Source of Receipt and other particulars. The Committee has recommended that a threshold limit of Rs.10 lakhs be fixed

for reporting by banks.



The Committee has noted that Sec177 of Indian Penal Code (IPC) prescribes a simple punishment of Rs.1000 or imprisonment for a term which may extend to six months, to a person who furnishes false information to a Public Servant. In case a false statement on oath is given to a Public Servant, Section 181 of IPC prescribes punishment which may extend to 3 years and shall also be liable to fine. The Committee has recommended that the provisions of Offences and Penalties be brought in line with the said sections of IPC.

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