

COMPENDIUM OF FOREIGN CONTRIBUTION (REGULATION) ACT, 1976

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At the very outset it is necessary to define what is Foreign Contribution. Foreign Contribution means the donation, delivery or transfer made by any foreign source of any article other than a gift to any Citizen of India resident in India, resident outside India or any associates, branches or subsidiaries outside India, of Companies or Bodies corporate, registered or incorporated in India.

Gifts irrespective of their amount and nature do not come under the purview of Foreign Contribution. It is noteworthy that Foreign Contribution may not always necessarily be in foreign currency, it can also be in Indian Currency if such contribution is of monetary nature.

As the volume of inflow of foreign contribution increased tremendously during the early 70s, the Government enacted the Foreign Contribution (Regulation) Act in the year 1976 with a main purpose to regulate the acceptance and utilisation of foreign contributions/donations or foreign hospitality by certain persons or associations.

The following are the restrictions made by the FCR Act.

1. Foreign Contribution cannot be accepted by any:

- v Candidate for election to any Legislature.
- v Correspondent, Columnist, Cartoonist, Editor, Owner, Printer or Publisher of a registered Newspaper.
- v Judge, Government servant or employee of any corporation owned by Government.
- v Member of any Legislature.
- v Political Party or Office Bearer thereof.

2. No organisation of a political nature, not being a political party shall accept any Foreign Contribution except with the prior permission of the Central Government with Ministry of Home Affairs. Application should be made to the Central Government for this purpose in either Form FC-1 or FC-1A or FC-8 depending upon the circumstances of each case.

3. Any other association except an organisation of a political nature, in order to accept Foreign Contribution has to register itself with the Central Government in accordance with the rules framed under this act and will have to agree to receive such Foreign Contribution only through such one of the branches of a bank as it may specify in its application for such registration. The application for registration shall have to be made by the Organisation in Form FC-8. These associations are also required to give an intimation to the Central Government regarding the amounts, sources, purposes for which and the manner in which the Foreign

Contribution so received by them has been utilised by them.

4. Every Citizen of India who is in receipt of any stipend, scholarship or any payment of a like nature exceeding Rs. 36,000/- in a year from any foreign source will have to give an intimation to the Central Government regarding amount, source and purpose of the Foreign Contribution so received by him within such time period as may be specified in the Act.

5. A member of a legislature or Political Party or any Judge or a Government Servant is not entitled to accept without the prior permission of Central Government any foreign hospitality except for an emergency on account of a sudden illness during their visit to any foreign country. However if under such circumstances, the person aforementioned accepts such foreign hospitality, he has to intimate the Central Government about the amount, source and the manner of receipt of such foreign hospitality.

6. If the Central Government after making an enquiry is satisfied that a person has accepted any foreign currency in contravention of the rules framed by the act, then the Central Government may, by an order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing with such Foreign Currency in any manner.

7. Every association entitled to accept Foreign Contribution should in such form and manner as has been prescribed maintain an account of Foreign Contribution received by it as well as a record of the manner of utilisation of such Foreign Contribution. Every account should be maintained on a yearly basis and every such yearly account should be certified by a Chartered Accountant. Such certified accounts along with a Balance Sheet and a Receipts and Payments Account shall be furnished in duplicate to the Secretary to the Government of India, in the Ministry of Home Affairs, New Delhi, within 4 months of the closure of the year.

8. If the Central Government has any reasons to believe that any provisions of the Act has been violated by any political party, a person or an association etc., then it may by general or special order in writing authorise such Gazetted Officer as it may think fit to inspect any accounts or record, maintained by such political party, person, association etc.

9. If such Gazetted Officer after such inspection is of the opinion that a provision as contained in the Act has been in fact violated by the party concerned, then he may seize such account or record and produce the same before the Court in which any proceeding is brought for such contravention.

10. If the returns filed by an organisation or an Association according to the opinion of the Central Government is incomplete or inadequate, or the Central Government has any suspicion regarding the truthfulness of the returns then it may dispel its suspicion by authorizing a Gazetted Officer to conduct an examination of the affairs of such association or organisation.

11. If such Gazetted Officer has come to the conclusion after such examination that a person has in his possession any Foreign Currency or article, in contravention of the rules framed by the Act in this behalf, he may seize such article or currency in accordance with the provisions of Section 100 of the code of

Criminal Procedure.

12. If any person on whom a prohibitory order has been passed, still deals with such Foreign Currency in any manner, he is liable to a punishment of either fine or imprisonment which may extend to three years or both depending upon the circumstances of the case.

13. Any person who accepts foreign hospitality in contravention of the rules framed by the Act is liable to a punishment of either fine or imprisonment which may extend up to three years or both depending upon the circumstances of the case.

14. Any person who accepts, assists any person, political party or organisation in accepting any Foreign Contribution in contravention of the rules framed under the Act is punishable with imprisonment for a term which may extend to five years or fine or both depending upon the circumstances of the case.

The Central Government has powers to prohibit receipt of Foreign Contribution in certain cases:

The Central Government may:-

1. require any association to obtain prior permission of Central Government before accepting any foreign contribution

2. require any person or class of persons or any association, to furnish intimation within such time and in such manner as may be prescribed regarding the amount, source and the manner of the utilization of the foreign contribution received by it.

3. require any person or class of persons or any association, to obtain prior permission of the Central Government before accepting any foreign hospitality.

4. require any person or class of persons to furnish intimation within such time and in such manner as may be prescribed regarding the amount, source and the manner of receiving such foreign hospitality.

The Central Government has also the powers to frame rules regarding Foreign Contribution and change it from time to time in such manner as it may think fit.

Under the present scenario in the world, the Government should keep strict vigilance of the Foreign Contribution received by the persons so that these amounts are not used for anti-social, anti-national activities in India.