
TAX EXEMPTIONS FOR CHARITABLE AND RELIGIOUS TRUSTS UNDER SECTIONS 11 TO 13: A CRITICAL APPRAISAL

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ABSTRACT

The Indian Income Tax Act, 1961 accords significant tax exemptions to charitable and religious trusts under Sections 11 to 13, reflecting the legislature's intent to encourage philanthropy and social welfare. However, the operation of these provisions has often sparked debate over their scope, misuse, and alignment with the principles of equity and fiscal accountability. This paper critically appraises the legal framework governing tax exemptions for charitable and religious trusts, analyzing statutory provisions, judicial interpretations, and administrative practices. It examines the conditions for eligibility, application of income, accumulation rules, and the restrictions imposed on private religious purposes and benefit to specific communities. The study highlights the judicial trend of balancing legislative intent with the prevention of abuse of tax privileges. Drawing from landmark decisions of the Supreme Court and High Courts, it evaluates whether the current framework effectively distinguishes genuine charitable activity from tax avoidance mechanisms. The paper concludes with suggestions for reform aimed at ensuring transparency, accountability, and equitable application of tax exemptions in harmony with public policy objectives.

Keywords: Income Tax Act, 1961, Sections 11–13, charitable trusts, religious trusts, tax exemption, fiscal accountability, judicial interpretation.

INTRODUCTION

Charitable and religious institutions have historically played a pivotal role in promoting social welfare, education, healthcare, and moral advancement in India. Recognizing their contribution to public good, the Indian legislature, through the Income Tax Act, 1961, has granted specific exemptions to income derived from property held under trust for charitable or religious purposes. These exemptions, primarily codified under Sections 11 to 13, reflect the State's intent to support altruistic activities by reducing the tax burden on entities engaged in such pursuits. The underlying philosophy behind these provisions lies in the belief that promoting philanthropy indirectly furthers social justice, complementing the State's constitutional obligations under the Directive Principles of State Policy. However, while the exemption framework under Sections 11 to 13 was enacted to encourage genuine charitable and religious endeavours, its practical application has been fraught with complexity and controversy¹. The increasing number of trusts claiming charitable status, coupled with the broad and evolving interpretation of the term "charitable purpose" under Section 2(15), has led to administrative challenges and potential misuse. Issues such as diversion of funds, benefit to specific religious communities, and the blending of commercial and charitable activities have raised questions about the integrity and fiscal prudence of the existing regime. Moreover, the Revenue authorities often face difficulties in distinguishing genuine charitable activities from those that primarily serve private or profit-oriented interests under the guise of public welfare.

Judicial interpretation has significantly influenced the scope and application of these provisions. Landmark decisions, such as *Commissioner of Income Tax v. Surat Art Silk Cloth Manufacturers' Association* (1980)² and *American Hotel & Lodging Association v. CBDT*

(2008), have expanded the understanding of "charitable purpose" while attempting to balance the legislative intent with the need to prevent tax evasion. Courts have consistently emphasized that the dominant objective of the trust should be the advancement of public welfare rather than private profit. Nevertheless, divergent judicial views and amendments introduced to Section 2(15) over the years especially concerning activities involving trade, commerce, or business have created interpretational ambiguities.

¹ The Income Tax Act, 1961, s s 2(15), 11–13

² CIT v. Surat Art Silk Cloth Manufacturers' Association, (1980) 2 SCC 31.

This research paper undertakes a critical appraisal of the legal framework governing tax exemptions for charitable and religious trusts under Sections 11 to 13. It explores the historical evolution, statutory conditions, and judicial developments shaping the scope of these provisions. The study further analyzes how effectively the current legal regime achieves its objectives of promoting genuine charitable and religious activities while curbing misuse. The paper also evaluates administrative challenges, compliance requirements, and recent legislative trends aimed at enhancing transparency and accountability in the functioning of trusts. By examining both doctrinal and practical dimensions, this research seeks to provide insights into the adequacy, fairness, and sustainability of India's tax exemption policy for charitable and religious institutions.

RESEARCH OBJECTIVE

- To examine the legal framework governing tax exemptions for charitable and religious trusts under Sections 11 to 13 of the Income Tax Act, 1961, and its underlying legislative intent.
- To analyze the scope and interpretation of the term "*charitable purpose*" under Section 2(15) and its impact on the eligibility of trusts for tax exemption.
- To identify challenges and loopholes in the administration and enforcement of tax exemptions, including issues of misuse, lack of accountability, and ambiguity in compliance requirements.
- To propose reforms and policy recommendations for improving the transparency, efficiency, and equity of the exemption framework under the Income Tax Act.

SCOPE OF THE RESEARCH

The scope of this research is confined to the legal and judicial analysis of tax exemptions granted to charitable and religious trusts under Sections 11, 12, and 13 of the Income Tax Act, 1961. The study primarily focuses on the interpretation, applicability, and practical implications of these provisions within the Indian legal framework. It critically examines the legislative intent, judicial precedents, and administrative practices that govern the exemption regime, with particular emphasis on the evolving meaning of "*charitable purpose*" under Section 2(15). The research encompasses a doctrinal analysis of statutory provisions and case law from the

Supreme Court and various High Courts to understand the contours of exemption eligibility, application of income, accumulation rules, and restrictions imposed on trusts engaged in mixed charitable and commercial activities. While the primary focus remains on the Indian context, selective comparative references to international practices may be included to highlight best practices and reform possibilities.

This study does not delve into the detailed accounting or auditing aspects of trust management, nor does it examine specific individual cases of tax evasion except as illustrations of broader legal issues. Instead, it seeks to provide a critical and conceptual understanding of how the existing legal regime balances the twin objectives of promoting philanthropy and ensuring fiscal accountability. The findings are aimed at contributing to academic discourse, policy development, and future legislative reform in the field of tax exemption for charitable and religious institutions in India.

LITERATURE REVIEW

The taxation of charitable and religious trusts in India has been a subject of extensive academic and judicial discourse. The evolution of legal principles governing exemptions under Sections 11 to 13 of the Income Tax Act, 1961 has drawn attention from scholars, policymakers, and courts alike, owing to the delicate balance these provisions seek to maintain between encouraging public welfare and preventing fiscal abuse. Early commentaries such as Kanga & Palkhivala's *The Law and Practice of Income Tax* (10th ed., 2014) provide a foundational understanding of the legislative philosophy behind tax exemptions. The authors emphasize that the exemption provisions were intended not as privileges, but as recognition of the social value of charitable activities. Similarly, A.C. Sampath Iyengar's *Law of Income Tax* (11th ed., 2019) explores the interpretative complexities surrounding the term "*charitable purpose*" under Section 2(15), noting that the inclusion of "advancement of any other object of general public utility" has historically led to disputes over the charitable character of mixed or profit-oriented activities.

Several academic studies have critiqued the broad and often ambiguous scope of charitable exemptions. Palkivala (2016) and Chaturvedi & Pithisaria (2020) point out that the lack of a clear distinction between charitable and commercial undertakings has resulted in extensive litigation and administrative uncertainty. R. Kumar (2018) in his paper "Fiscal Policy and NonProfit Entities in India" highlights that the exemption regime, while socially motivated,

has sometimes been exploited for private gain, undermining its intended purpose.

Judicial precedents have also significantly contributed to the literature. The Supreme Court's ruling in CIT v. Surat Art Silk Cloth Manufacturers' Association (1980) 121 ITR 1 (SC) remains a cornerstone judgment, establishing the principle that a charitable purpose may incidentally involve profit, provided the dominant object is public welfare. Further, decisions in American Hotel & Lodging Association v. CBBT (2008) 301 ITR 86 (SC) and Queen's

Educational Society v. CIT (2015) 8 SCC 47 reinforced the "dominant purpose test" while cautioning against trusts that disguise profit motives as charitable activities. Recent literature has expanded the debate to the regulatory and accountability framework. Singh and Sharma

(2021), in their article "*Governance Challenges in Charitable Trusts and Taxation*," argue that regulatory oversight under the Income Tax Act and the Charitable and Religious Trusts Act remains fragmented, allowing room for non-compliance and mismanagement. They advocate for a harmonized approach between tax authorities and charity commissioners to ensure transparency and efficient monitoring.

Moreover, policy-oriented studies such as those by NIPFP (National Institute of Public Finance and Policy) suggest that while the exemption mechanism supports philanthropic contributions, it requires stronger disclosure norms and periodic reviews to prevent misuse of tax privileges. Comparative literature also indicates that countries like the United Kingdom and the United States have adopted stricter standards for defining public benefit and regulating tax-exempt organizations lessons that could inform Indian reform.

Overall, the existing body of literature underscores that while the tax exemption provisions under Sections 11 to 13 have noble objectives, their implementation has faced persistent challenges related to definition, interpretation, and compliance. This research builds upon these insights by offering a critical appraisal of the current framework, assessing its doctrinal soundness, judicial evolution, and practical effectiveness in achieving fiscal justice and social welfare.

RESEARCH PROBLEM

The provisions under Sections 11 to 13 of the Income Tax Act, 1961 were enacted with the objective of promoting charitable and religious activities by granting income tax exemptions

to institutions engaged in public welfare. However, over time, the implementation and interpretation of these provisions have become increasingly complex and contentious. The broad statutory language, coupled with varying judicial interpretations of key terms such as “charitable purpose,” “application of income,” and “benefit to a particular religious community,” has created significant ambiguities in determining eligibility for exemption. One major concern is the misuse of tax exemptions by entities operating under the guise of charitable or religious trusts but engaging in profit-oriented or private benefit activities. Such misuse undermines both fiscal equity and public trust in the exemption regime. Additionally, inconsistent judicial pronouncements and frequent legislative amendments particularly to Section 2(15) have blurred the line between genuine charitable enterprises and commercial ventures claiming charitable status.

Moreover, there exists a lack of uniform regulatory oversight and inadequate mechanisms to ensure transparency and accountability in the administration of trust funds. These challenges raise fundamental questions about whether the current legal framework under Sections 11 to 13 effectively balances the promotion of genuine philanthropy with the protection of the revenue base.

RESEARCH QUESTIONS

- Whether the legislative intent and underlying policy rationale behind granting tax exemptions to charitable and religious trusts under Sections 11 to 13 of the Income Tax Act, 1961?
- whether extent has the current exemption framework succeeded in distinguishing between genuine charitable activities and profit-oriented ventures claiming charitable status?
- Whether the major legal and administrative challenges faced in regulating and monitoring charitable and religious trusts, especially concerning misuse and lack of accountability?
- Whether reforms or policy measures can strengthen the existing legal framework to ensure transparency, fiscal responsibility, and the promotion of genuine philanthropic activities?

HYPOTHESIS

The existing legal framework under Sections 11 to 13 of the Income Tax Act, 1961, though designed to promote public welfare through tax incentives, does not fully achieve its intended purpose due to ambiguities in statutory interpretation, administrative inefficiencies, and misuse of exemptions by non-genuine charitable entities.

SCHEME OF STUDY

Chapter 1: Introduction

This chapter sets the foundation of the study by explaining the background, significance, and rationale of tax exemptions for charitable and religious trusts under the Income Tax Act, 1961. It outlines the legislative intent behind Sections 11 to 13, the research objectives, scope, research problem, questions, and hypothesis. The chapter also highlights the relevance of this study in ensuring a balance between public welfare and fiscal responsibility.

Chapter 2: Legal Framework Governing Tax Exemptions for Charitable and Religious Trusts

This chapter delves into the statutory provisions governing exemptions under Sections 11, 12, and 13 of the Income Tax Act, along with the related definition of “*charitable purpose*” under Section 2(15). It discusses the conditions for exemption, such as registration under Section 12AA/12AB, application and accumulation of income, restrictions on use for private benefit, and the role of Section 13 in denying exemption in cases of misuse. The chapter also provides a brief historical overview of the development of charitable trust taxation from the 1922 Act to the post-1961 regime.

Chapter 3: Judicial Interpretation and Doctrinal Development

This chapter critically examines landmark judicial decisions that have shaped the understanding of charitable and religious purposes. Key cases such as CIT v. Surat Art Silk

Cloth Manufacturers’ Association (1980), American Hotel & Lodging Association v. CBDT (2008), Queen’s Educational Society v. CIT (2015), and others are analyzed to explain the evolution of the *dominant purpose test* and the treatment of commercial activities. It evaluates

the judiciary's role in interpreting legislative intent and balancing between promoting philanthropy and curbing tax abuse.

Chapter 4: Administrative and Practical Challenges in Implementation

This chapter explores the practical issues faced by tax authorities and charitable institutions in implementing Sections 11 to 13. It highlights challenges such as lack of uniformity in registration and monitoring, misuse of exemptions through diversion of funds, and inadequate regulatory mechanisms. The chapter also discusses recent amendments and administrative circulars impacting compliance, as well as the need for better coordination between the Income Tax Department and charity regulators.

Chapter 5: Comparative and Critical Analysis

This chapter provides a critical appraisal of the Indian framework by comparing it with international practices, particularly those in the United Kingdom and the United States, where stricter definitions of public benefit and accountability mechanisms exist. It evaluates whether the Indian exemption model achieves its policy objectives or inadvertently enables tax avoidance. The analysis identifies legal and structural loopholes and examines the tension between fiscal neutrality and social welfare objectives.

Chapter 6: Findings, Suggestions, and Conclusion

The final chapter summarizes the key findings of the research, emphasizing the strengths and weaknesses of the current exemption system. It offers suggestions and policy recommendations to enhance transparency, accountability, and fairness in the administration of charitable and religious trust exemptions. The chapter concludes by reaffirming the need for a reformed and balanced approach that aligns with constitutional values of equality, social justice, and fiscal responsibility.

HISTORICAL EVOLUTION OF TAX EXEMPTION FOR CHARITABLE AND RELIGIOUS TRUSTS

The concept of granting tax exemptions to charitable and religious institutions in India dates back to the Indian Income Tax Act of 1922, which first recognized income from property held under trust for charitable or religious purposes as exempt from tax. The 1922 Act's approach

was simple and limited in scope, focusing primarily on trusts directly engaged in charitable activities. With the enactment of the Income Tax Act, 1961, the scope of charitable exemptions was substantially widened to align with modern notions of philanthropy and social service. The 1961 Act introduced Sections 11 to 13, laying down detailed rules on exemption, registration, application of income, and disqualification in cases of misuse. The legislature intended to promote the idea that tax incentives could serve as an indirect mechanism for wealth redistribution and public benefit. Over time, however, the broad and inclusive definition of “charitable purpose” under Section 2(15) led to interpretational challenges, particularly regarding entities engaged in activities with a commercial element. Consequently, the provision has been amended multiple times, most notably in 2008, to restrict exemptions for organizations carrying out trade, commerce, or business under the guise of charity.

Definition of “Charitable Purpose” under Section 2(15)

Section 2(15) defines “*charitable purpose*” to include, “relief of the poor, education, medical relief, and the advancement of any other object of general public utility.”

This broad definition has historically allowed flexibility in recognizing diverse charitable activities. However, the 2008 amendment introduced a significant restriction stating that advancement of any other object of general public utility shall not be considered charitable if it involves carrying on any activity in the nature of trade, commerce, or business for consideration. Judicial interpretation has played a crucial role in resolving the tension between charitable intent and commercial activity. The Supreme Court in *CIT v. Surat Art Silk Cloth*

Manufacturers’ Association (1980)³ held that a trust would not lose its charitable character merely because it engaged in profit-making activities, provided that the dominant purpose remained charitable. This “dominant purpose test” continues to be a guiding principle for determining the charitable nature of an institution.

Exemption Provisions under Sections 11, 12, and 13

Section 11 – Income from Property Held for Charitable or Religious Purposes

Section 11 forms the core of the exemption framework⁴. It provides that income derived from

³ CIT v. Surat Art Silk Cloth Manufacturers’ Association (1980) 2 SCC 31

⁴ The Income Tax Act, 1961, s 11

property held under trust wholly for charitable or religious purposes is exempt, provided the income is applied to such purposes in India. Up to 85% of the income must be applied during the year, while the remaining 15% may be accumulated for future application. The section also allows accumulation of income for up to five years if specific conditions such as filing a prescribed form and stating the purpose of accumulation are satisfied. However, failure to apply or accumulate income as per statutory conditions results in the forfeiture of exemption.

Section 12 – Voluntary Contributions

Section 12 deals with voluntary contributions received by a trust. Such contributions are generally considered part of the trust's income and are exempt if applied for charitable or religious purposes⁵. However, corpus donations, which are given with a specific direction that they shall form part of the capital of the trust, enjoy separate treatment and are not included in the total income under Section 11.

Section 13 – Cases Where Exemption Is Denied

Section 13 serves as a restrictive and regulatory provision, ensuring that exemptions are not misused⁶. It denies exemption in cases where, The income benefits any private individual or specified person associated with the trust. The trust is established for the benefit of a particular religious community or caste, except where it serves the general public. The funds are invested in modes other than those prescribed under Section 11(5). This section thus ensures that the exemption framework serves public interest and not private or sectarian motives.

Registration and Compliance under Section 12AA/12AB

For a trust or institution to claim exemption under Sections 11 and 12, registration with the Commissioner of Income Tax under Section 12AA (now 12AB) is mandatory. The registration process involves scrutiny of the trust's objectives, genuineness of its activities, and adherence to the statutory conditions. The recent amendments under the Finance Act, 2020 introduced a system of re-validation of registration every five years, aimed at improving regulatory oversight and ensuring that only active and compliant entities continue to enjoy exemptions.

⁵ Id. s 12.

⁶ Id. s 13.

Interrelationship Between Sections 11 to 13

Sections 11, 12, and 13 are interdependent and must be read harmoniously. While Section 11 grants exemptions, Section 12 expands their scope by including voluntary contributions, and Section 13 imposes restrictions to prevent abuse. Together, they form a comprehensive framework balancing encouragement of philanthropy with fiscal accountability.

Legislative and Policy Rationale

The policy rationale behind granting exemptions to charitable and religious trusts is deeply rooted in social justice and welfare economics. The State acknowledges that trusts often undertake welfare activities that complement governmental functions in areas such as education, healthcare, and poverty alleviation. Hence, offering tax incentives encourages voluntary participation in nation-building. However, the legislative design also reflects a dual objective while facilitating public benefit, it must safeguard public revenue from exploitation.

The inclusion of Section 13 and amendments to Section 2(15) demonstrate the legislature's evolving approach toward balancing these competing interests.

JUDICIAL INTERPRETATION AND DOCTRINAL DEVELOPMENT

The Evolution of Judicial Interpretation

The Indian judiciary's approach to charitable and religious trusts has evolved through several stages from a literal interpretation of statutory language to a more purposive and welfare-oriented approach. Early judgments emphasized the public character of charitable activities, while later decisions introduced the "dominant purpose test" and examined the commercial element in charitable undertakings. The courts have consistently reiterated that while profitmaking in itself does not disqualify an organization from being charitable, the primary or dominant objective must remain public benefit and not private gain. This judicial reasoning forms the doctrinal basis of exemption jurisprudence in India.

Landmark Judicial Decisions

CIT v. Surat Art Silk Cloth Manufacturers' Association, (1980) 121 ITR 1 (SC)⁷

⁷ CIT v. Surat Art Silk Cloth Manufacturers' Association, (1980) 121 ITR 1 (SC)

This landmark case is the cornerstone of charitable tax jurisprudence in India. The assessee association was engaged in promoting trade and commerce among silk manufacturers, and the

Revenue contended that since the association's activities yielded income, it could not be considered charitable. The Supreme Court, however, held that a trust or institution does not lose its charitable character merely because it earns profits, as long as the dominant purpose of the institution is charitable. The Court introduced the "dominant purpose test", asserting that if the primary purpose is the advancement of an object of general public utility, the incidental earning of income would not disqualify the institution from exemption under Section 11. This judgment established that the *means* employed to achieve a charitable objective (even if involving profit) are not decisive; rather, it is the *end purpose* that determines eligibility for exemption.

Addl. CIT v. Surat Art Silk Cloth Manufacturers' Association (1980) and the "Dominant Purpose Test"

Following the precedent above, the Court reaffirmed that the term "charitable purpose" in Section 2(15) must be interpreted liberally. The decision clarified that advancement of any other object of general public utility includes activities promoting trade, commerce, or industry if undertaken for the broader benefit of society and not for profit distribution among members.

CIT v. Andhra Chamber of Commerce, (1965) 55 ITR 722 (SC)

In this case, the Court held that an institution established to promote trade and commerce could still qualify as charitable if its dominant object was to benefit the general public rather than individual traders. This case set the early groundwork for the reasoning later affirmed in the *Surat Art Silk* decision.

Sole Trustee, Loka Shikshana Trust v. CIT, (1975) 101 ITR 234 (SC)⁸

Here, the issue concerned whether publication of newspapers could be treated as a charitable activity under "education" or "general public utility." The Supreme Court ruled that since the trust's primary activity was selling newspapers at a profit, it could not be considered charitable. The Court emphasized that an element of profit motive, when substantial and recurring,

⁸ Sole Trustee, Loka Shikshana Trust v. CIT, (1975) 101 ITR 234 (SC).

disqualifies an institution from exemption. This judgment demonstrated the Court's insistence that charitable character depends not merely on the declared object but also on actual conduct and financial management.

CIT v. Bar Council of Maharashtra, (1981) 130 ITR 28 (SC)⁹

In this case, the Bar Council's activities such as providing welfare to lawyers and improving legal education were held to be charitable under the head "advancement of any other object of general public utility." The Court observed that the benefit to a specific professional class does not necessarily negate the public character of the purpose if the benefit extends indirectly to the public at large. This decision broadened the interpretation of "public utility," recognizing professional development as part of social welfare.

American Hotel and Lodging Association Educational Institute v. CBDT, (2008) 301 ITR 86 (SC)¹⁰

This case examined whether an educational institution conducting certification and training programs in hotel management could claim exemption under Section 10(23C). The Court held that the mere generation of surplus does not destroy the charitable nature of an educational institution, provided the surplus is applied entirely toward educational purposes. The judgment reinforced the principle that profit motive must be absent, but the mere earning of surplus for furthering charitable objectives is permissible. It also emphasized procedural fairness and the need for the Revenue to examine the genuineness of activities before denying registration or exemption.

Queen's Educational Society v. CIT, (2015) 8 SCC 47¹¹

The Supreme Court revisited the "profit versus purpose" debate, holding that an educational institution can have a surplus as long as it is ploughed back into educational activities. The Court clarified that institutions cannot be denied exemption merely because they generate income; what matters is whether the surplus is applied for charitable purposes and not distributed as profit. This judgment harmonized judicial thinking by reaffirming the dominant

⁹ Bar Council of Maharashtra v. CIT, (1981) 130 ITR 28 (SC).

¹⁰ American Hotel and Lodging Association Educational Institute v. CBDT, (2008) 10 SCC 509.

¹¹ Queen's Educational Society v. CIT, (2015) 8 SCC 47.

purpose test in the post-2008 amendment context, where Section 2(15) had introduced commercial restrictions.

Doctrinal Developments in Judicial Interpretation

From these rulings, several doctrinal principles have emerged, The Dominant Purpose Test, If the primary object of the trust is charitable, incidental profit-making does not alter its character. Public Benefit Requirement, Charitable purpose must serve the public at large and not a confined or exclusive group, except when it is a well-defined charitable class (e.g., poor students or patients). Application of Income Principle, Income must be applied to charitable or religious purposes within India to qualify for exemption. Prohibition of Private Benefit, any direct or indirect benefit to trustees, founders, or related parties negates charitable status under Section 13. Commercial Activity Restriction, Post-2008, trusts engaged in trade, commerce, or business are not considered charitable unless such activities are incidental and undertaken without a profit motive.

ADMINISTRATIVE AND PRACTICAL CHALLENGES IN IMPLEMENTATION

Registration and Compliance Issues

The registration process under Section 12AA (now replaced by Section 12AB)¹² requires trusts and institutions to prove their genuineness and the charitable nature of their activities. However, the process has often been criticized for its lack of uniformity and transparency. The discretion vested in assessing officers can lead to inconsistent interpretations regarding eligibility for registration. Additionally, renewal requirements under Section 12AB have increased administrative burden, especially for smaller organizations with limited resources. Many trusts struggle to maintain adequate documentation, audited accounts, and compliance reports necessary to justify continued exemption.

Misuse of Exemptions and Diversion of Income

One of the most persistent challenges is the misuse of exemptions by organizations that claim charitable status while engaging in commercial or profit-oriented activities. Some entities divert income for non-charitable purposes or personal benefits of trustees and their relatives,

¹² The Income Tax Act, 1961, s s 12A, 12AA, 12AB.

directly violating Section 13(1)(c) and 13(3). The absence of strict monitoring mechanisms allows such misuse to go undetected. There are cases where trusts operate under the guise of charity but primarily serve private interests, such as educational institutions charging exorbitant fees or hospitals restricting access to lower-income beneficiaries.

Inadequate Regulatory Oversight

The regulatory framework governing charitable and religious trusts is fragmented, involving both central and state authorities. While the Income Tax Department handles taxation aspects, state-level Charity Commissioners and Trust Registrars oversee registration and management under respective public trust laws. This lack of coordination often results in overlapping jurisdictions and regulatory gaps. There is no centralized digital database for monitoring charitable activities, nor a uniform mechanism to verify whether exempted income is actually applied for charitable purposes. Moreover, periodic audits are often superficial, focusing only on financial statements rather than the substantive charitable outcomes of the trust's work.

Challenges in Interpretation of “Charitable Purpose”

The definition of “charitable purpose” under Section 2(15) has been a major source of litigation and administrative confusion. The inclusion of “advancement of any other object of general public utility” allows broad interpretation, but the proviso restricting commercial activities has led to inconsistent assessments. Tax authorities often deny exemptions to trusts engaged in minimal commercial activity, even when profits are applied for charitable ends, while some entities exploit the same clause to justify extensive business-like operations. This lack of clarity undermines both administrative efficiency and the predictability of tax treatment.

Lack of Transparency and Accountability

Transparency is a critical component of maintaining public confidence in charitable and religious institutions. However, many trusts fail to disclose sufficient information regarding their funding sources, expenditure patterns, and beneficiaries. Although the Income Tax Act mandates maintenance of books of accounts and submission of audit reports, these records are rarely subjected to independent scrutiny. Public access to such information remains limited, fostering opacity. This weak accountability structure enables potential tax evasion and money laundering through bogus charitable organizations.

COMPARATIVE AND CRITICAL ANALYSIS

Comparative Perspective: The United Kingdom

The UK has a long-established system of charity regulation, primarily governed by the Charities Act 2011 and overseen by the Charity Commission for England and Wales. Under UK law, a charity must satisfy two essential conditions: It must have purposes recognized as “charitable” under the law, and It must provide a public benefit. Tax exemptions in the UK apply to income and gains used for charitable purposes, similar to Sections 11 and 12 of the Indian Act. However, the UK system emphasizes transparency and accountability through, Mandatory registration and annual reporting to the Charity Commission, Public access to financial statements and activities via online databases, Strict sanctions for misuse or private benefit, and Independent scrutiny of charity accounts by auditors. This approach reduces discretion and ensures that charitable entities genuinely contribute to social welfare.

Comparative Perspective: The United States

In the United States, tax exemption for charitable and religious organizations is governed by Section 501(c)(3) of the Internal Revenue Code (IRC). Organizations must operate *exclusively for exempt purposes* such as charitable, religious, educational, or scientific activities. The IRS grants and monitors this status through a detailed application and periodic review process. Key features include, Clear definition of permissible activities and prohibited political involvement, Mandatory disclosure of annual information returns (Form 990), which are publicly accessible, Revocation mechanisms for non-compliance or private inurement, and A strong culture of donor transparency and third-party oversight. This framework ensures that exemptions serve genuine social objectives, while misuse is addressed through penalties and loss of exempt status.

Indian Framework in Comparison

Compared to the UK and US systems, the Indian model under Sections 11 to 13 appears **less** structured and less transparent. While it shares similar goals, its implementation mechanisms are relatively weak. There is no centralized authority akin to the UK Charity Commission or the IRS that consolidates registration, compliance, and oversight. The definition of “charitable purpose” in Section 2(15) is broad, leaving significant room for interpretative

ambiguity. Monitoring mechanisms remain largely dependent on the Income Tax Department, which often lacks the institutional capacity to evaluate the social utility of charitable activities. Additionally, India lacks a robust public disclosure framework, which prevents citizens from accessing data on charitable spending and impact.

Critical Evaluation of the Indian System

A critical appraisal of the Indian tax exemption regime reveals both strengths and weaknesses.

Strengths:

Encourages public welfare through fiscal incentives, Provides a flexible and inclusive framework for diverse charitable and religious activities, Protects religious freedom under Article 26 of the Constitution by recognizing religious trusts.

Weaknesses:

Excessive discretion in granting and renewing exemptions, Lack of uniformity and transparency in compliance and reporting, Ambiguous interpretation of the term “*charitable purpose*” leading to inconsistent judicial outcomes, Weak enforcement against misuse and private benefit, Absence of measurable accountability mechanisms for trusts’ real-world social impact. These shortcomings collectively diminish the effectiveness of the tax exemption regime and raise questions about fiscal equity and administrative justice.

Lessons from International Models

India can derive several lessons from the comparative study, Establish a Central Regulatory Authority akin to the UK Charity Commission, to oversee registration, audits, and public disclosure. Enhance Public Accountability by mandating annual impact reports and accessible financial disclosures. Introduce Uniform Criteria for defining and verifying “public benefit” in charitable activities. Implement Periodic Review Mechanisms to ensure continued compliance and prevent abuse. Encourage Independent Auditing to ensure genuine charitable intent and transparency in financial management. Adopting these measures would strengthen institutional integrity and align India’s system with global standards of accountability and fairness.

FINDINGS, SUGGESTIONS, AND CONCLUSION

Findings

The study reveals that while Sections 11 to 13 of the Income Tax Act, 1961 were enacted to promote genuine charitable and religious activities, their practical application has often been undermined by ambiguous definitions and administrative inconsistencies. The term “charitable purpose” under Section 2(15) has been at the center of considerable judicial interpretation, especially concerning whether entities engaged in profit-generating activities can still qualify for exemption. The Supreme Court in *Surat Art Silk Cloth Manufacturers’*

Association laid down the “dominant purpose” test, affirming that if the primary objective of an institution is charitable, the incidental generation of surplus would not disqualify it from exemption.¹³ However, subsequent rulings such as *Queen’s Educational Society v. CIT* and *American Hotel and Lodging Association v. CBDT* show that the courts have oscillated between strict and liberal interpretations, reflecting the need for clearer legislative direction.¹⁴

Administrative reforms, such as the introduction of Sections 12AA and 12AB for registration and periodic revalidation of trusts, have strengthened the compliance framework. Yet, excessive procedural burdens and delayed approvals by tax authorities continue to create uncertainty for genuine institutions.¹⁵ Moreover, the study finds that a lack of transparency and misuse of exemptions by pseudo-charitable entities has raised concerns over accountability and the effective use of tax incentives. Reports by the Law Commission and the OECD emphasize that India must strike a balance between encouraging philanthropy and preventing revenue leakage.¹⁶

Conclusion

The research concludes that the current legal framework, though conceptually sound, requires modernization to align with global best practices and evolving socio-economic realities. The judicially developed doctrines such as the “dominant purpose test” and the exclusion of profit-oriented activities must be codified into the statute to ensure uniformity in interpretation. Additionally, the policy objective of Sections 11 to 13 to promote social welfare through voluntary and religious institutions remains vital, but its success depends on effective oversight

¹³ CIT v. Surat Art Silk Cloth Manufacturers’ Ass’n, (1980) 2 SCC 31

¹⁴ Queen’s Educational Soc’y v. CIT, (2015) 8 SCC 47 ; Am. Hotel & Lodging Ass’n Educ. Inst. v. CBDT, (2008) 10 SCC 509

¹⁵ The Income Tax Act, 1961, s s 12AA, 12AB

¹⁶ Law Commission of India, *Report No. 268: Reforms in the Charitable Trust Laws in India* (2017); OECD, *Taxation and Philanthropy: Comparative Study of Legal Frameworks* (2020).

and transparent governance. Comparative insights from jurisdictions like the UK and USA demonstrate that periodic financial disclosures, public charity registers, and digital monitoring mechanisms can enhance the credibility of charitable organizations while safeguarding the tax base.

Suggestions

- **Statutory Clarity**, Amend Section 2(15) to clearly define “charitable purpose,” distinguishing between genuine charitable activity and commercial ventures disguised as charities.
- **Simplified Registration**, Streamline the registration and revalidation process under Sections 12AB and 80G through a single-window online mechanism.
- **Enhanced Transparency**, Introduce mandatory annual disclosure of expenditure and project outcomes by trusts receiving exemptions, similar to the UK’s Charity Commission model.¹⁷
- **Periodic Policy Review**, Establish an expert committee to periodically evaluate the effectiveness of tax exemptions in achieving social welfare objectives.
- **Digital Oversight**, Strengthen coordination between the Income Tax Department, NITI Aayog’s NGO Darpan, and CSR platforms to ensure real-time monitoring of charitable funds.¹⁸

¹⁷ Charity Commission for England and Wales, Public Register of Charities, available at <https://www.gov.uk/government/organisations/charity-commission>

¹⁸ NITI Aayog, NGO Darpan Portal (available at <https://ngodarpan.gov.in>); Ministry of Finance, CBDT Annual Report 2023.

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