

No. II/21022/23(17)/2006-FCRA I
Government of India
Ministry of Home Affairs
(Foreigner's Division)

Jaisalmer House,
New Delhi dated 27.2.2006

OFFICE MEMORANDUM

Subject : Refusal by banks to allow credit of legitimate foreign contribution in designated bank accounts of associations under FCRA.

On the request of the Ministry of Home Affairs, the RBI has been issuing instructions, from time to time, to all the commercial banks stressing on the need to comply with the provisions of the Foreign Contribution (Regulation) Act, 1976 and not to allow credits of foreign contribution in the accounts of organizations/associations unless the association has obtained either prior permission or registration under Section 6 of the Act from Ministry of Home Affairs.

2. While it is appreciated that most of the banks are strictly following the instructions issued by RBI in this matter in letter and spirit, instances have come to the notice of this Ministry that some banks have refused to allow credit of the following type of legitimate foreign contribution in the designated bank account of associations which have obtained either prior permission or registration under the Act:

- (i) Foreign donation in Indian currency received as second recipient by the association registered or granted prior permission under FCRA.
- (ii) Donations given by foreigners of Indian origin when made in Indian currency.
- (iii) Interest accrued on deposits made out of foreign contribution.

3. According to section 2(1)(c) of the FCRA 1976,
“ ‘foreign contribution’ means the donation, delivery or transfer made by any foreign source,-

- (i) of any article, not being an article given to a person as a gift for his personal use, if the market value, in India, of such article, on the date of such gift, does not exceed one thousand rupees;***
- (ii) of any currency, whether Indian or foreign;***
- (iii) of any foreign security as defined in clause (i) of Section 2 of the Foreign Exchange Regulation Act, 1973;***

Explanation – A donation, delivery or transfer of any article, currency or foreign security referred to in this clause by any person who has received it from any foreign source, either directly or through one or more persons, shall also be deemed to be foreign contribution within the meaning of this clause”.

4. In view of the above, it is clarified that even donations which are in Indian rupee currency but have been received from foreign source, including foreigners of Indian origin or if such funds are transferred by first recipient of foreign contribution to other organisations within the country, are considered foreign contribution under FCRA, 1976. Further, interest earned from deposits made out of foreign contribution is also to be treated as FC under the Act. Non-deposit of these types of FC in the designated bank account of an organisation constitutes violation of the Act and the association is liable for penal action under the Act. Therefore, refusal of the banks to allow credit of these legitimate foreign contributions in the designated bank account of an association which has either obtained prior permission or registration under FCRA causes undue hardship to such associations.

5. Ministry of Finance, Department of Economic Affairs (Banking Division) may therefore advise RBI to issue the above clarification to all the scheduled banks immediately.

6. This has the approval of Joint Secretary (F), MHA.

(Anuj Sharma)
Deputy Secretary (FC)
Tele. 23071157

Ministry of Finance,
Department of Economic Affairs,(Banking Division),
Jeevan Deep Building, Sansad Marg,
New Delhi-110001

Copy for information and necessary action to Reserve Bank of India,
Department of Banking Operations and Development, Centre-1, Cuffe Parade,
Colaba, Mumbai-400005.

(S. Nagarajan)
Under Secretary (FCRA-1)