

**Minutes of Consultation on Pre-Budget Memorandum and
Simplification of Tax Laws for the Voluntary Sector.**

Place: Committee Room I, India International Centre
Date: 6th January 2007
Time: 10:00 a.m. to 2:00 p.m.

1. Background

Voluntary Sector in India has been instrumental in the implementation of various social development projects. It focuses on filling the void that is created due to withdrawal of the State from welfare measures.

Voluntary Sector is presently governed by various legal statutes right from registration to compliance of various requirements.

However, the various amendments stringent in nature carried from time to time by the Government reduce the space of the Voluntary Sector.

Voluntary Action Network India (VANI), a network organisation with a strong base of 2200 voluntary organisations in India is involved in lobbying and advocacy to voice the concern of the Sector.

Financial Management Service Foundation (FMSF) is a resource organisation that works closely with VANI in the above cause.

VANI & FMSF together organised the Consultation on the Pre-Budget Memorandum to discuss and highlight those issues to be considered during the working of the forthcoming Fiscal Budget for the year 2007 by the Union Government.

About 27 representatives participated in the Consultation. The list of participants is attached herewith.

Mr. Pooran Chandra Pandey, CEO, VANI & Mr. Sanjay Patra, Executive Director, FMSF welcomed everybody present in the meeting which was followed by brief round of introduction of the participants.

Mr. Pandey initiated the proceedings by giving brief overview of the various developments relating to the Voluntary Sector and aspects of the Union Budget which is having or likely to have intended /unintended impact on the external and the internal environment of the Voluntary Sector.

Mr. Patra also presented his view on the subject and reiterated the importance of ensuring an enabling environment for the Voluntary Sector through fiscal regulations as well as the consistency in the application of laws to enhance the service delivery capacity of the voluntary sector. This included updation on the latest FCRA Bill passed by the Rajya Sabha and its current status, recalling of the proposals Kelkar Committee Report by the government, information about ICAI's initiative in developing Accounting Standards for Voluntary Sector, formulation of National Policy for the Voluntary Sector by the Planning Commission etc.

He also invited participants to share their view points and suggestions.

Mr. Patra suggested the participants to put forward their thoughts on the following aspects in order to guide the discussion:

- What exactly the government wants from the sector?
- What are the expectations of sector from the government?
- Whether it is advisable to have some kind of Self regulatory mechanism or Self Regulatory Organisation for the voluntary sector as a whole to uphold the best practices?

- Why or what step should be taken to achieve consistency in the application of tax laws?

2. Pre-budget Memorandum(2007)

The discussion started with reviewing the existing legal scenario affecting the NGOs and the problem associated with the inconsistency in the application of laws affecting the NGOs. Member participants presented their view and shared their experiences about the incongruity of tax laws in its application, and the operational difficulties being faced by them or their clients in complying with the tax laws. Members also expressed their anguish against the bureaucracy for their suspicious approach towards the Voluntary Sector as a whole without having any substantial basis for it. The tendency of bureaucracy in generalising their assumptions on the basis of their experience of few fraudulent practices of NGOs was also highly condemned.

It was also observed during the discussion that many Indian NGOs have grown their area geographically and have activities ranging all over South Asia. However, tax laws have not kept pace with the growth in activities and geographical reach.

In the meeting it was observed that the issues affecting the NGOs in the tax law environment were of such diversity that it is advisable to restrict the discussion to only those aspects that concerns the forthcoming budget and make recommendations to the government for the same.

The following topics came for discussion and recommendation. These topics were discussed in accordance of with their consensus on the importance of topic.

- Anonymous Donations
- Registration under section 12A
- Section 80G
- Definition of “Charitable Purpose” under Income Tax Act, 1961

- Tax Administration
- New FCRA Bill, 2006

On the basis of discussion on the above topic following suggestions were made by the participants present.

1. Anonymous donation

As it is not possible to wish away the taxation of anonymous donation, it was felt that the right approach would be to ask for rules that will govern this provision which are still not framed, should be framed in such a manner that it is benign in application as well as interpretation. The group suggested to have such mechanisms that will ensure transparency in such dealing with such donations such as :

- all cash donations should be deposited with the organisation's bank account; and
- also all anonymous donations even it is received by cheques should be deposited with the bank.

2. Registration under Section 12A & under Section 80G

As it is observed that large number of NGOs have not obtained registration under section 12A, fearing retrospective effect of the law. It is suggested that a scheme should be devised to grant a one-time amnesty with retrospective effect of registration. It will not only ensure compliance of the law but also help raise revenue and better tax administration such as TDS.

Also obtaining renewal of the time bound registration under Section 80 G becomes a complicated procedure for many organisations.

Hence it was decided to propose a one time registration across the board which will enable registration under 12A, 80G, PAN, TAN etc.

Till then, to emphasise for consistency to the Act is to be maintained by implementing departments while enforcing the same. As per the Act, Section 80 G registration can be granted upto a maximum of 5 year period. However, in practice the Income Tax Department grants for a period of 3 years.

3. Definition of Charitable purposes as per Income Tax law.

Charitable purpose as defined by the Income Tax Act has become outdated. Although, it takes into account the philanthropic aspect of the charity, it still fails to recognise the developmental and service delivery aspect of the charity. The concept of “Charity” has undergone massive change from the late sixties onwards. Hence, it is suggested that definition of “charitable purpose” should be reviewed accordingly to include / incorporate latest concepts and practices in “Voluntarism.”

4. Tax Administration

It was commented by the participants that if the government is expecting transparency and compliance from the NGO sector then the expectations should be reciprocal. Not only the Voluntary Sector but also the government should do its part in improving the compliance and transparency by providing an enabling environment. For example, setting time limits in granting registration under section 10(23)C, 12A and strict adherence to those time limits. Establishing a specific department to deal Voluntary Sector, could be one step in this aspect.

3. Open House Discussion & Conclusion

Open House discussion was held where participants expressed their view as to the steps to be taken for presenting demands the government.

A Core Group was formed with the following members:

Core Group Members:

1. Mr. S. V. Satyamurti
2. Mr. Joselyn Martins
3. Mr. Rangan Dutta
4. Mr. Anup Khosla
5. Mr. Sudhir Varma
6. Mr. Arun Bhatia

Action Points:

1. to share the report of this meeting by 09.01.2007.
2. to receive the feed-back from the participants latest by 11.01.2007
3. the Core Group to meet on 12.01.2007 to finalise the Memorandum and send the same to the Finance Minister.

The meeting was closed with a vote of thanks by Mr. Patra & Mr. Pandey which was followed by lunch.

Recorded by
S. P. Selvi & Sameer Thapa
Financial Management Service Foundation

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**Consultation on pre-budget memorandum and
Simplification of tax laws for the voluntary sector
Saturday, 6th January 2007, Committee Room II, India International Centre
Time: 10:00 a.m. to 1:00 p.m.**

List Participants who attended

1.	Mr. Anup Khosla Chief Financial Officer HelpAge India C-14, Qutab Institutional Area, New Delhi- 110016 Tel : 011 -42030446; Fax : 011 - 26852916 Mobile: +919810150570 E-Mail: anup.khosla@helppageindia.org	2.	Mr. Sanjay Patra Executive Director Financial Management Service Foundation Accountability House, A-5, Sector 26, Noida - 20130 Tel.: 95120 - 2546732/ 33 / 44 / 45 Fax: 95120 - 2546731 E-mail: fmsindia@vsnl.com, fmsf@fmsfindia.org & sanjay@fmsfindia.org
3.	Mr. Rangan Dutta Scientific Consultant, Office of Principal Scientific Adviser to GOI and ex D.G CAPART C-106, Sector - 40, Noida Tel.: 95120-2578526; Mobile: 9871321406 E-Mail: rangandutta@yahoo.co.in	4.	Mr. Arun Bhatia Chartered Accountant Charnalia Bhatia & Gandhi B-14, (Basement) Lajpat Nagar - III, New Delhi Tel. : 29832678 / 573 / 516 E-mail : cbgca@vsnl.com
5.	Mr. S. S. Sharma Registrar Rajiv Gandhi Foundation Dr. Rajendra Prasad Road Jawahar Bhawan, New Delhi - 110 001 Tel.: 23755117/8; 28080439(R) Fax: 23755119 E-Mail: sharma@rgfindia.org	6.	Mr. S V. Satyamurti Chief Executive Officer All India Association for Micro Enterprises Development (AIAMED) K-6 Akash Bharathi Apartments 24 I. P. Extension, New Delhi - 110092 Tel.: 011-22734717; 26437838 Mobile: 9818353598 E-mail: aiamed@del2.vsnl.net.in Website: www.aiamed.org.in
7.	Ms. Lalitha S.A., Asst. Director CISRS-Christian Institute for the Study of Religion and Society 14, Jangpura B, Mathura Road New Delhi 110 014 Tel.: 24319821, 24313681; Fax : 24313681 E-Mail : cisrsdel@rediffmail.com, cisrsblr@yahoo.com	8.	Dr. Pradipto Nayak Sampradan Indian Centre for Philanthropy Sector C, Pocket 8/8704 Vasant Kunj, New Delhi - 110 070 Tel. : 26899368 Telefax : 26121917 E-mail : icp@nelb.vsnl.net.in
9.	Ms. Vinita Nagar Unniti Foundation 140, Sundar Nagar, 2nd Floor New Delhi 110 003 Phone (O) : 51507149 Mobile : 9810333743 E-Mail : vinitaknagar@yahoo.co.in	10.	Mr. Joselyn Martins J.A. Martins & Co. Chartered Accountant 223, UGF DDA site 1 Shankar Road, Delhi - 110 060 Tel.: 28744022; Fax: 28744033 E-Mail: ngo223@yahoo.com
11.	Mrs. Farida Vahedi Secretary for External Affairs	12.	Mr. Pooran Chandra Pandey Chief Executive Officer

	<p>National Spiritual Assembly of the Bahais of India Bahai House, 6, Srimant Madhavrao Scindhia Marg, New Delhi- 110 001 Ph: 011-23386458, 23389326, 23387004 Fax: 011- 23782178 E-mail: oea@bahaindia.org and farida_vahedi@yahoo.com</p>		<p>Voluntary Action Network India (VANI) BB-5, Greater Kailash Enclave – II New Delhi – 48 Tel.: 29228127 & 41435536; Fax: 41435535 E-Mail: info@vaniindia.org</p>
13.	<p>Wg. Cdr. Vijay Raj Finance Manager Development Alternatives 111/9-Z, Kishangarh Vasant Kunj; New Delhi 110 070 Phone (O) : 26134103, 26890380 Fax : 26130817 E-Mail: info@devalt.org Website : www.devalt.org</p>	14.	<p>Ms. S. P. Selvi Financial Management Service Foundation Accountability House, A-5, Sector 26, Noida – 20130 Tel.: 95120 – 2546732/ 33 / 44 / 45 Fax: 95120 – 2546731 E-mail: fmsindia@vsnl.com, fmsf@fmsfindia.org</p>
15.	<p>Mr. Sameer Thapa Project Monitoring Coordinator Financial Management Service Foundation Accountability House, A-5, Sector 26, Noida – 20130 Tel.: 95120 – 2546732/ 33 / 44 / 45 Fax: 95120 – 2546731 E-mail: fmsindia@vsnl.com, fmsf@fmsfindia.org</p>	16.	<p>Mr. Vivek Mittal Development Alternatives 111/9, Z-Block, Kishangarh Near Vasant Kunj, New Delhi – 110 070 Tel.: 26134103, 26890380 Fax : 26130817 Mobile: 9818330114 E-Mail : info@devalt.org</p>
17.	<p>Mr. Rakesh Jha Development Alternatives 111/9, Z-Block, Kishangarh Near Vasant Kunj, New Delhi – 110 070 Tel.: 26134103, 26890380 Fax : 26130817 Mobile: 9868501574 E-Mail : info@devalt.org</p>	18.	<p>Mr. Sharad Tewari Development Alternatives 111/9, Z-Block, Kishangarh Near Vasant Kunj, New Delhi – 110 070 Tel.: 26134103, 26890380 Fax : 26130817 Mobile: 9868239406 E-Mail : info@devalt.org</p>
19.	<p>Ms. Mamta Srivastava National Coordinator Networking & Extension Services R-289 A, Greater Kailash , Part -I New Delhi-110048 ,INDIA Tel. 011 32994117 (Direct) ; 41730573/74 Email : mamta@isapindia.org , www.isapindia.org</p>	20.	<p>Mr. N. Krishnan Senior Manager, Finance PRAYAS Institute of Juvenile Justice 59, tughlakabad Institutional Area, New Delhi 110 062 Phone (O) : 011-29955505, 29956244, 29051103 E-Mail : prayas@del6.vsnl.net.in Website : www.prayaschildren.com</p>
21.	<p>Mr. Sudhir Varma Chartered Accountant S.M. Varma & Co. B-57, IInd Floor, New Rajinder Nagar New Delhi – 110 060 Tel.: 28741848, 1778, 2468 Mobile: 9811117008; Fax: 28741540 E-Mail: smvarma@vsnl.com</p>	22.	<p>Mr. Arun Poojary MBA – Rural Project Management Dept. of Extension Education Gandhigram Tamil Nadu – 624 302 Mobile: 09810687769</p>

23.	<p>Ms. Gurinder Kaur H-3C, Saket, New Delhi Ph: 26967795 (R); Mobile: 9811626727 Email: g_kaur12@hotmail.com & gurinkaur@gmail.com</p>	24.	<p>Ms. Sakina Mushtaq Programme Manager - Networking Voluntary Action Network India (VANI) BB-5, Greater Kailash Enclave - II New Delhi - 48 Tel.: 29228127 & 41435536 Fax: 41435535 E-Mail: sakina@vaniindia.org Website: www.vaniindia.org</p>
25.	<p>Mr. Hari Shanker Singh Accounts Officer Voluntary Action Network India (VANI) BB-5, Greater Kailash Enclave - II New Delhi - 48 Tel.: 29228127 & 41435536 Fax: 41435535 E-Mail: harishankar@vaniindia.org Website: www.vaniindia.org</p>	26.	<p>Ms. Minal Manisha Programme Officer Voluntary Action Network India (VANI) BB-5, Greater Kailash Enclave - II New Delhi - 48 Tel.: 29228127 & 41435536; Fax: 41435535 E-Mail: info@vaniindia.org</p>
27.	<p>Ms. Roshni Mallik Programme Manager - Media Voluntary Action Network India (VANI) BB-5, Greater Kailash Enclave - II New Delhi - 48 Tel.: 29228127 & 41435536 Fax: 41435535 E-Mail: roshni@vaniindia.org Website: www.vaniindia.org</p>	28.	