Foreign Contribution (Regulation) Act, 2010

Chapter 1 - CHAPTER 1 : PRELIMINARY

SECTION 1 : Short title, extent, application and commencement(1) This Act may be called the Foreign Contribution (Regulation) Act, 2010. (2) It extends to the whole of India, and it shall also apply to- (a) citizens of India outside India; and (b) associate branches or subsidiaries, outside India, of companies or bodies corporate, registered or incorporated in India. (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint: Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.SECTION 2 : Definitions(1) In this Act, unless the context otherwise requires,- (a) "association" means an association of individuals, whether incorporated or not, having an office in India and includes a society, whether registered under the Societies Registration Act, 1860 (21 of 1860), or not, and any other organisation, by whatever name called; (b) "authorised person in foreign exchange" means an authorised person referred to in clause (c) of Sec. 2 of the Foreign Exchange Management Act, 1999 (42 of 1999); (c) "bank" means a banking company as referred to in clause (c) of Sec. 5 of the Banking Regulation Act, 1949 (10 of 1949); (d) "candidate for election" means a person who has been duly nominated as a candidate for election to any Legislature; (e) "certificate" means certificate of registration granted under sub-sec. (3) of Sec. 12; (f) "company" shall have the meaning assigned to it under clause (17) of Sec. 2 of the Income-tax Act, 1961 (43 of 1961); (g) "foreign company" means any company or association or body of individuals incorporated outside India and includes- (i) a foreign company within the meaning of Sec. 591 of the Companies Act, 1956(1 of 1956): (ii) a company which is a subsidiary of a foreign company; (iii) the registered office or principal place of business of a foreign company referred to in sub-clause (i) or company referred to in sub-clause (ii); (iv) a multi-national corporation. Explanation.- For the purposes of this sub-clause, a corporation incorporated in a foreign country or territory shall be deemed to be a multi national corporation if such corporation, - (a) has a subsidiary or a branch or a place of business in two or more countries or territories; or (b) carries on business, or otherwise operates, in two or more countries or territories; (h) "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, is not more than such sum as may be specified from time to time, by the Central Government by the rules made by it in this behalf; (ii) of any currency, whether Indian or foreign; (iii) of any security as defined in clause (h) of Sec. 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and includes any foreign security as defined in clause (o) of Sec. 2 of the Foreign Exchange Management Act, 1999 (42 of 1999). Explanation 1.-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. Explanation 2.-The interest accrued on the foreign contribution deposited in any bank referred to in sub-sec. (1) of Sec. 17 or any other income derived from the foreign contribution or interest thereon shall also be deemed to be foreign contribution within the meaning of this clause. Explanation 3.- Any amount received, by any person from any foreign source in India, by way of fee (including fees charged by an educational institution in India from foreign student) or towards cost in lieu of goods or services rendered by such person in the ordinary course of his business, trade or commerce whether within India or outside India or any contribution received from an agent of a foreign source towards such fee or cost shall be excluded from the definition of foreign contribution within the meaning of this clause; (i) "foreign hospitality" means any offer, not being a purely casual one, made in cash or kind by a foreign source for providing a person with the costs of travel to any foreign country or territory or with free boarding, lodging, transport or medical treatment; (j) "foreign source" includes,- (i) the Government of any foreign country or territory and any agency of such Government; (ii) any international agency, not being the United Nations or any of its specialised agencies, the World Bank, International Monetary Fund or such other agency as the Central Government may, by notification, specify in this behalf; (iii) a foreign company; (iv) a corporation, not being a foreign company, incorporated in a foreign country or territory; (v) a multi-national corporation referred to in sub-clause (iv) of clause (g); (vi) a company within the meaning of the Companies Act, 1956 (1 of 1956), and more than one-half of the nominal value of its share capital is held, either singly or in the aggregate, by one or more of the following, namely:- (A) the Government of a foreign country or territory; (B) the citizens of a foreign country or territory; (C) corporations incorporated in a foreign country or territory; (D) trusts, societies or other associations of individuals (whether incorporated or not), formed or registered in a foreign country or territory; (E) foreign company; (vii) a trade union in any foreign country or territory, whether or not registered in such foreign country or territory; (viii) a foreign trust or a foreign foundation, by whatever name called, or such trust or foundation mainly financed by a foreign country or territory; (ix) a society, club or other association of individuals formed or registered outside India; (x) a citizen of a foreign country; (k) "Legislature" means - (A) either House of Parliament; (B) the Legislative Assembly of a State, or in the case of a State having a Legislative Council, either House of the Legislature of that State; (C) Legislative Assembly of a Union territory constituted under the Government of Union Territories Act, 1963 (20 of 1963); (D) Legislative Assembly for the National Capital Territory of Delhi referred to in the Government of National Capital Territory of Delhi Act, 1991 (1 of 1992); (E) Municipality as defined in clause (e) of Art. 243-P of the Constitution; (F) District Councils and Regional Councils in the States of Assam, Meghalaya, Tripura and Mizoram as provided in the Sixth Schedule to the Constitution; (G) Panchayat as defined in clause (d) of Art.243 of the Constitution; or (II) any other elective body as may be notified by the Central Government; (1) "notification" means notification published in the Official Gazette and the expression "notify" shall be construed accordingly; (m) "person" includes- (i) an individual; (ii) a Hindu undivided family; (iii) an association; (iv) a company registered under Sec. 25 of the Companies Act, 1956 (1 of 1956); (n) "political party" means- (i) an association or body of individual citizens of India- (A) to be registered with the Election Commission of India as a political party under Sec. 29-A of the Representation of the People Act, 1951 (43 of 1951); or (B) which has set up candidates for election to any Legislature, but is not so registered or deemed to be registered under the Election Symbols (Reservation and Allotment) Order, 1968; (ii) a political party mentioned in column 2 of Table 1 and Table 2 to the notification of the Election Commission of India No.56/JandK/02, dated the 8th August, 2002, as in force for the time being; (o) "prescribed" means prescribed by rules made under this Act; (p) "prescribed authority" means an authority specified as such by rules made by the Central Government under this Act; (q) "registered newspaper" means a newspaper registered under the Press and Registration of Books Act, 1867 (25 of 1867); (r) "relative" has the meaning assigned to it in clause (41) of Sec. 2 of the Companies Act, 1956(1 of 1956); (s) "scheduled bank" shall have the meaning assigned to it under clause (e) of Sec. 2 of the Reserve Bank of India Act, 1934 (2 of 1934); (t) "subsidiary" and "associate" shall have the meanings, respectively assigned to them in the Companies Act, 1956 (1 of 1956); (u) "trade union" means a trade union registered under the Trade Unions Act, 1926 (16 of 1926); (2) Words and expressions used herein and not defined in this Act but defined in the Representation of the People Act, 1950 (43 of 1950) or the Representation of the People Act, 1951 (43 of 1951) or the Foreign Exchange Management Act, 1999 (42 of 1999) shall have the meanings respectively assigned to them in those Acts.