

Wakf Act, 1954

Section 46 - ANNUAL CONTRIBUTIONS PAYABLE TO THE BOARD 149 [

1) The mutawalli of every wakf, the net annual income of which is not less than one thousand rupees, shall pay annually, out of the net annual income derived by the wakf, such contribution, not exceeding six per cent of such annual income as may be prescribed, to the Board for the services rendered by such Board to the wakf. Explanation 1.- For the purposes of this Act, "net annual income" shall mean the gross income of the wakf from all sources, including nazars and offerings which do not amount to contributions to the corpus of the wakfs, in a year after deducting there from, the following, namely:- (i) the land revenues paid by it to the Government, including cesses paid to local authorities; (ii) the rates, taxes and licence fees, if any, paid by it to the Government or any local authority; (iii) expenditure incurred for all or any of the following purposes, namely:- (a) maintenance of, or repairs to, irrigation works, which shall not include the capital cost of irrigation; (b) seeds or seedlings; (c) manure; (d) purchase, and maintenance, of agricultural implements; (e) maintenance of, or repairs to, irrigation, works, cultivation; (f) wages for ploughing, watering, sowing, transplanting, harvesting, threshing and other agricultural operations; Provided that the total deduction in respect of an expenditure incurred under this clause shall not exceed ten per cent. of the income derived from the lands belonging to the wakf; (iv) expenditure on sundry repairs to rented buildings, not exceeding five per cent of the annual rent derived there from, or the actual expenditure, whichever is less ; (v) sale proceeds of immovable properties or rights relating to, or arising out of, immovable properties, if such proceeds are reinvested to earn income for the wakf: Provided that the following items of receipts shall not be deemed to be income for the purposes of this section, namely:- (a) advances and deposits recovered and loans taken or recovered; (b) deposits made as security by employees, lessees, or contractors and other deposits, if any; (c) withdrawals from banks or of investments; (d) amounts recovered towards costs awarded by courts; (e) sale proceeds of religious books and publications where such sales are undertaken as an unremunerative enterprise with a view to propagating religion; (f) donations in cash or kind or offerings made by the donors as contribution to the corpus of the wakf: Provided that the interest on income, if any, accruing from such donations or offerings shall be taken into account in calculating the gross annual income; (g) voluntary contributions received in cash or kind for a specific service to be performed by the wakf and expended on such service; (h) audit recoveries. Explanation 2.- In determining the net annual income for the purposes of this section, only the net profit derived by any wakf from its remunerative undertakings, if any, shall be taken as income, and in respect of its non-remunerative undertakings, such as, schools, colleges, hospitals, poor homes, orphanages or any other similar institutions, the grants given by the Government or any local authority or donations received from the public or fees collected from the pupils of educational institutions shall not be taken as income;] (2) The Board may in the case of 150 [any mosque or orphanage or any particular wakf] reduce or remit such contribution for such time as it thinks fit. (3) The mutawalli of a wakf may realise the contributions payable by him under sub-section (1) from the various persons entitled to receive any pecuniary or other material benefits from the wakf, but the sum realisable from any one of such persons shall not exceed such amount as shall bear to the total contribution payable by the same proportion as the value of the benefits receivable by such person bears to the entire net annual income of the wakf: Provided that if there is any income of the wakf available in excess of the amount payable as dues under this Act, other than as the contribution under sub-section (1), and in excess of the amount payable under the wakf deed, the contribution shall be paid out of such income. (4) The contribution payable under sub-section (1) in respect of a wakf shall, subject to the prior payment of any dues to the Government or any local authority or of any other statutory first charge on the wakf property or the income thereof, be a first charge on the income of the wakf and shall be recoverable, on a certificate issued by the Board after giving the mutawalli concerned an opportunity of being heard, as an arrear of land revenue. (5) If a mutawalli realises the income of the wakf and refuses to pay or does not pay such contribution, he shall also be personally liable for such contribution which may be realised from his person or property in the manner aforesaid. 151 [(6) Where,

after the commencement of the Wakf (Amendment) Act, 1984, the mutawalli of wakf fails to submit a return of the net annual income of the wakf within the time specified therefor or submits a return which, in the opinion of the Wakf Commissioner, is incorrect or false in any material particular, or which does not comply with the provisions of this Act Or any rule or order made thereunder, the Wakf Commissioner may, assess the net annual income of the wakf to the best of his judgment or revise the net annual income as shown in the return submitted by the mutawalli and the net annual income as so assessed or revised shall be deemed to be the net annual income of the wakf for the purposes of this section: Provided that no assessment of net annual income or revision of return submitted by mutawalli shall be made except after giving a notice to the mutawalli calling upon him to show cause, within the time specified in the notice, as to why such assessment or revision of the return shall not be made and every such assessment or revision shall be made after considering the reply, if any, given by the mutawalli. (7) Any mutawalli who is aggrieved by the assessment or revision made by the Wakf Commissioner under sub-section (6) may prefer an appeal to the State Government within thirty days from the date of the receipt of the assessment or revision of return and the State Government may, after giving the appellant and the Wakf Commissioner a reasonable opportunity of being heard confirm, reverse or modify the assessment or revision of the return and the decision of the State Government shall be final. (8) If, for any reason, the contribution or any portion thereof leviable under this section has escaped assessment in any year, whether before or after the commencement of the Wakf (Amendment) Act, 1984, the Wakf Commissioner may, within five years from the last date of the year to which such escaped assessment relates, serve upon the mutawalli a notice assessing him with the contribution or portion thereof which had escaped assessment, and demanding payment thereof within thirty days from the date of service of such notice, and the provisions of this Act and the rules made thereunder, shall, as far as may be, apply as if the assessments were made under this Act in the first instance.]

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