

compliance connect

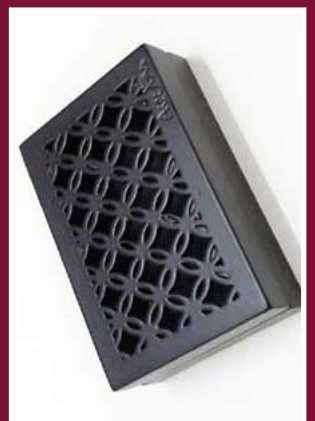
News and views from the social sector



Giving



Quarter 2 -
Jul to Sep 2018





NONPROFIT ORGANISATIONS MAKING PRODUCTS FEATURED IN OUR CONNECT SECTION.

(continues on the back inside cover)

Ekibeki Association is a nascent organisation that works to identify traditional Indian crafts which are at the risk of extinction, revive them through design, skills and market interventions and build self-sustaining artisan clusters.

Currently we work with 4 artisan groups in rural parts of Maharashtra, Madhya Pradesh, Orissa, West Bengal, Manipur.



At Ahura Support we work with differently abled adults. We train them in basic life skills, with the aim of making them as independent as possible. We have two day-care centres and a residential home. Currently we have 22 beneficiaries enrolled with us. We reach approximately 40-50 families, via our outreach programmes.



Aseema Charitable Trust works in partnership with the Municipal Corporation of Greater Mumbai (MCGM) to create centres of excellence by adopting English medium sections of schools. In Igatpuri (Maharashtra), we have an Education Centre for Tribal Children in the remote village of Awalkhedha. Annually Aseema reaches out to over 4000 students that belong to vulnerable sections of society.



Jai Vakeel Foundation is a 74-year-old NGO working with the intellectually disabled. We have a holistic approach to the management of these individuals and cater to over 3000 individuals annually, across varying age groups and varying levels of intellectual and other associated disabilities. Our services include – Healthcare, Education, Skill Development and Support Services



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Although we take utmost care, we apologise for any inadvertent typographical errors.*



The festive season is on us and this issue of Compliance Connect endeavors to celebrate the season of Giving, Grant-making & Gifting (NGO products & services) with the thread of compliance running through all the 3Gs.

In terms of recent trends in philanthropy, the Global Philanthropy Environment Index 2018 which evaluates 79 economies in 11 regions has concluded that the enabling environment for philanthropy is at its best in Singapore and the Philippines, and moderate in India, Indonesia, Pakistan, and Thailand.

It is also heartening to know that over the past four years the top hundred companies in India have spent in aggregate over INR. 500 Billion on CSR related projects while corporate giving in the USA during the year 2017 aggregated US \$ 20.77 Billion,

albeit without the laws in the USA mandating CSR.

An important parameter on which NPOs across the world are evaluated is Board Governance. The backbone of every NPO is its governing board and the values and standards of good governance which it adopts. However, we often observe that board members in India tend to think that their personal honesty and good reputation should be enough proof of organisational credibility. Asking further accountability from the organisations they are involved with is indirectly doubting or questioning their personal integrity. This is not the way Boards in countries like the USA or the UK perceive their role.

Some individuals spend years on the Board and if politely asked to make way for others, there is a sense of offence. "I have given my best years to this organisation, I have been so loyal, so involved, got in so much money, what good governance are you talking about I am lending my name and credibility to the organisation! Will someone coming in my place have the same level of commitment as I do?" Once again organisations in countries like the USA and UK have fixed terms of office for Board members, no matter who they may be.

There is lots to learn from global trends in the philanthropy space and the good news is more studies are being conducted worldwide today than ever before.

Noshir Dadrawala, Programme Director, Legal & CSR Compliance ■■■

This is the time of the year, when NGO sales are many and most of us open the purse strings towards the less privileged. In the last few years, NGOs have improved not only the presentation and quality of their products, but also the training for them, marketing and accounting. This issue is in celebration of the work NGOs do, the products they make and what they give as contributing members of the social sector. While products make you think of the aspect of 'give', we tend to ignore the 'giving up'.

The NGO involved is giving all they have to ensure the finished range is appealing. They weigh under the pressures of time, tax and compliance. Sheer patience on the part of parents, caregivers, NGOs and never give up attitude that helps beneficiaries make products and thus in turn gives them a livelihood, an opportunity to be gainfully engaged and raising their self-esteem.

One product may be the outcome of many moments of frustration, despair and wanting to give up. For products made by the differently abled, they deal with not just physical challenges but mood swings and low productivity as well. Community women involved in product making complete a number of household chores before attending to their products. Patients and cancer caregivers burdened with stress of the treatment and associated costs somehow manage to roll out something worthwhile.

Many buy NGO products out of pity. But next time think again. The product you pick is not just the merchandise. It is the aspiration, ambition, perseverance and desire of an individual who has been given and chance to never give up.

Meher Gandevia-Billimoria, Programme Director, Capacity Building & Resources ■■■



Charitable trust liable to pay GST in Maharashtra

Goods and services provided by charitable trusts for a consideration would classify as supply, making it liable for GST, the Authority of Advanced Ruling (AAR) for GST in Maharashtra has ruled. The ruling further states that trusts would need to register under GST if its annual turnover was above the threshold of Rs 20 lakh.

The trust in its application argued that since its main activity was that of a charitable trust engaged in spreading religious knowledge by organising camps (satsang, shibirs), its ancillary activity of selling religious material in the forms of books, CDs, DVDs, pamphlets and statues shouldn't be considered as business.

AAR rejected the trust's contention saying that some of its activities — providing accommodation for participants in camps and sale of merchandise — weren't free and hence attracted GST.

"As such arranging residential or non-residential satsang/shibir/yoga camps by accepting/charging some amount from participants will not be covered under 'charitable activities,' the order stated. It further said that there is no exemption granted to charitable trusts in case of supply of goods which are taxable and are not specifically exempt or nil rated.

The application was filed under section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, by Shrimad Rajchandra Adhyatmik Satsang Sadhana Kendra. The applicant trust sought an advance ruling in respect of the following four questions which AAR in its Advance Ruling NO. GST-ARA-41/2017-18/B-48 (14th June 2018) answered assertively.

Question 1. Whether the applicant which is a charitable trust with the main object of advancement of religion, spirituality or yoga can be said to be in business so as to attract the provisions of Central Goods and Service Tax Act, 2017 and Maharashtra Goods and Service Tax Act, 2017? **Answer: Yes.**

Question 2. Whether the applicant which is a charitable trust with main object of the advancement of religion, spirituality or yoga is liable to registration under the provisions of Central Goods and Service Tax Act, 2017 and Maharashtra Goods and Service Tax Act, 2017? **Answer: Yes, provided that aggregate turnover in a financial year exceeds limit prescribed u/s 22 of the GST Act.**

Question 3: Whether sale of spiritual products of the applicant can be said to be business of the applicant in terms of the definition in Section 2(17) of the Central Goods and Service Tax Act 2017 and option provision of Maharashtra Goods and Service Tax Act 2017? **Answer: Yes.**

Question 4: Whether the sale of spiritual products can be said to be supply under Section 7 of the Central General Sales Tax Act, 2017 and equivalent provision of the Maharashtra Goods and Service Tax Act, 2017 so as to attract GST? **Answer: Yes**

The recent order, for the time being has put to rest all doubts and disagreements regarding applicability of GST to charitable organizations. The order is quite clear and assertive. Even if your organization is charitable, if there is supply of goods or services in excess of Rs. Twenty lakhs during any financial year, GST will be applicable. ■■

Personal Data Protection Bill 2018

In the previous issue of Compliance Connect we wrote on the topic of 'General Data Protection Regulation' or the GDPR wherein, if your nonprofit or charitable institution has even one constituent in the European Union (EU), this regulation is something you need to be aware of and comply with. This law has come into effect from 25th May 2018 and it protects certain kinds of data inside the European Union and data that flow across EU borders, including establishments in other countries that use personal data for transactions involving services or goods within the EU.

Our home grown 'Personal Data Protection Bill 2018' has incorporated several provisions of GDPR. The proposed Bill essentially makes individual consent central to data sharing and makes the right to privacy a fundamental right. Unless one provides explicit consent, personal data cannot be shared or processed.

The draft bill also states that any person processing personal data is obligated to do so in a fair and reasonable manner. In other words, data should be processed only for the purposes it was intended for in the first place. Failing to meet these provisions could cost defaulters with hefty penalties. ■■

NGO products – Compliance Check

Several NGOs make and market products. Some of these products are very creatively and artistically made and not just individuals and institutions, but, companies also buy these products which make excellent gifts on festive occasions. For many NGOs this is not just an opportunity to create awareness about their cause or their work, but, also provides revenue. However, with revenue comes responsibility and compliance goes hand-in-hand with any responsibility.

Compliance under Income Tax Act 1961

Under Section 2(15) of the Income Tax Act, 1961 “charitable purpose” includes:

1. Relief of the poor
2. Education, Yoga
3. Medical relief
4. Preservation of Environment (including watersheds, forests and wildlife)
5. Preservation of monuments or places or objects of artistic or historic interest.
6. The advancement of any other object of general public utility.



However, Finance Act 2015 states that if the charitable purpose of the organization is: “the advancement of any other object of general public utility” then

“Any activity in the nature of trade, commerce or business or any activity of rendering any service in relation to any trade, commerce or business for a cess or fee or any other consideration, **irrespective of the nature of use or application or retention of the income from such activity** must meet the following criteria:

Such activity must be undertaken in the course of actual carrying out of such advancement of any other object of general public utility and

The aggregate receipts from such activity or activities during the previous year **do not exceed twenty per cent of the total receipts of the trust** or institution under such activity or activities of that previous year”.

This requirement is not applicable to organization falling in categories 1 to 5. It is applicable only to organisations falling in category No. 6 or “the advancement of any other object of general public utility”.

Assuming your NGO falls under category No. 6 and it makes and markets products (e.g. candles, bags, calendars, diaries etc.) then:

- 1) The activity of making and marketing such products must be undertaken in the course of carrying out the objects of your NGO.

Example: Is the activity an object of the NGO under its Trust Deed or Memorandum of Association or are the products being made by beneficiaries (young adults who are mentally challenged, differently-able persons etc.) as part of their rehabilitation program?



- 2) The aggregate receipts from such activity or activities during any financial year should not exceed twenty per cent of the total receipts of the trust or institution under such activity or activities of that previous year.



In other words, if the total income or receipts of your NGO from donations, grants and such non-commercial income during the Financial Year 2018-19 is One Crore Rupees, the income from the activity of making and marketing such products should not be more than twenty lakh Rupees.

If the total income or receipts of your NGO from donations, grants and such non-commercial income during the Financial Year 2018-19 is two Crore Rupees, the income from the activity of making and marketing such products should not be more than forty lakh Rupees. And, so on!

Compliance under GST Act 2017

To begin with, GST is charged only on ‘business activities’ and a ‘taxable person’ under GST, is a person who carries on any business at any place in India and who is registered or required to be registered under the GST Act.

Any person who engages in economic activity including trade and commerce is treated as taxable person.

‘Person’ here includes individuals, HUF, company, firm,

LLP, an AOP/BOI, any corporation or Government-company, body corporate incorporated under laws of foreign country, co-operative society, local authority, government, trust and artificial juridical person.

Thus, if a charitable trust has ‘business activities’ or engages in ‘economic activity’ it would be required to register under GST if the turnover from taxable supply of goods and services is over Rs.20,00,000 during the fiscal year.

Other (not tax related) Compliance

- 1) Safety and security of your NGO beneficiaries (e.g. young adults who are mentally challenged, differently-able persons etc.) involved in making the products is paramount. Conduct a thorough ‘Risk Assessment’, if required with the help of a professional consultant to identify potential risks and how best to mitigate or manage such risks.

- 2) Health and safety of the consumers of your products is also essential. It would be desirable to assess risks if any, especially if your products include perishable items or food items like chocolates or sweets made by your beneficiaries.

- 3) Engaging your beneficiaries in making products may be a form of therapy or an exercise in rehabilitating them economically or otherwise. However, obtaining their consent or consent of their guardian in writing is important. There have been instances where beneficiaries or guardians of the beneficiaries have turned hostile and accused the NGO of physical and/or mental exploitation.

- 4) It is also important to ensure that all stakeholders including Board members, staff, beneficiaries etc. are duly indemnified in writing in case of any accident or threat to life and limb.

- 5) Wherever possible, having relevant insurance cover may ensure that you sleep better! ■■■

Stay connected to all legal news and updates as they happen.
Follow the CAP Blog on www.capindia.in.

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Dear Noshir and Meher,

The 1st quarter issue of Compliance Connect is very well done. All the sections are very pertinent to the NGOs and individuals related to Social Sector. I am sure each of the issues would serve as excellent reference material for NGOs. Thank you very much for your continued efforts to strengthen Social Sector in India which as you have stated at one place “NGOs play a critical role in developing society, improve communities and improving citizen participation within the sovereign democratic republic of India

Warm regards and Best Wishes,
Pramod Nigudkar, Chief Executive Officer, MelJol

Effective Boards – Give and Grow

A Board that contributes or gives is an asset to every organisation. Boards that contribute their own funds to the organisation set exemplary leadership benchmarks for others to follow. However, even Boards which simply enable resource mobilization (both financial and human) add tremendous value. In the USA, Boards are expected to give 3Ts – Time, Talent & Treasure. Contribution of time, opening their networks, providing vision and sound advice are basic Board desirables and deliverables. We asked 3 board members involved with nonprofits how their boards are/were instrumental in the progress of the organizations that they are associated with.



I had the privilege to be founder trustee on **Indian Cooperative Oncology Network Trust** - established in the year 2000. The focus is on education, capacity building, research and patient support in cancer and related fields.

As is the usual experience, only a couple of board members take initiative and play an active role in the NGO. The rest play a passive supportive role.

This should change, especially since compliance requirements are now more rigorous and there is greater legal liability on trustees and board members.

Keeping documented SOP and processes, we could grow into a 550+ organization having its own office and sufficient funds to make running of the organization self-sufficient. Our activities spread across 140 cities in India and our six-monthly conferences became the most successful oncology educational activities in India and SAARC countries.

Most board members and trustees keep their association with their organization for as long as they are physically and mentally able to contribute. Unfortunately, this prevents fresh ideas from improving organization

function and expanding into new directions. Not many give thoughts to a succession plan - which is a vital part of evolution.

Being conscious of this point, I have voluntarily given up the position of managing trustee in 2013 and handed over the reins to the next generation.

Obviously, this has led to new direction, thoughts, ways of working and priorities. The only thing constant in life is change. And every change is an opportunity to do better.

So, I would strongly recommend to other board members to set goals and timelines including grooming the newer generations and handing over while we can still bask in the glory of new direction and new heights that the organization will reach under the next line of leadership.

Dr Purvish Parikh

Ex Chairperson, Indian Cooperative Oncology Network Trust & also associated with various cancer initiatives ■■■



SOFOSH (Society of Friends of the Sassoon Hospitals), located in Pune's Sassoon General Hospitals was established in 1964. The need for an NGO to help Sassoon's poor patients was felt by the hospital's two Medical Social Workers. The

then Dean, Dr. Mendonca, fully supported them and suggested a name for the NGO.

Nana Shahane, a well-known HR professional and Factory Manager of a large company, promptly agreed to help. With Nana's help and guidance, it was decided to approach individuals with a reputation for integrity, some of whom were influential and could raise funds, others who had the knowledge and experience useful for the organisation. A month later, SOFOSH's committee had a Chairperson and a Vice-Chairperson from influential industrial families, known for their

involvement in social work; a Corporator known for her honesty, the secretary of the Maharashtra Chamber of Commerce & Industry, with in-depth knowledge of rules & regulations, a treasurer widely reputed for his integrity and commitment to social causes; two joint secretaries and 4 other committee members.

During the first 10 years alone, the committee

- Raised funds for direct help to patients
- At the Dean's request, re-furnished the Blood Bank, motivated a private trust to donate a Walk-in-Cooler for it (hitherto the Blood Bank stored blood in refrigerators)
- Organized blood donation camps, increasing the ratio of voluntary donors from 3% to 35% within 2-3 years
- Appointed a craft teacher for long stay patients, a teacher for the pediatric wards
- Started a mobile library for indoor patients
- On noticing that although indoor patients were provided meals, relatives had to go to the railway station for even a cup of tea, arranged for 5 trolleys supplying tea and simple snacks, round the clock, near the burns wards, labour room, children's wards and operation theatres.
- Set up a workshop in the hospital premises to manufacture and provide surgical and orthopedic appliances on a no profit basis. One member even managed to get a large industry to donate a lathe machine for this workshop at a scrap value of Rs. 100.

The committee members were always willing to help where needed.

Over the years, what started as an NGO working for the welfare of Sassoon's patients went on to add many more activities, each one on a need basis, most at the behest of the hospital authorities: counselling services for relatives of burns, pediatric and diabetic patients, a child care centre, named Shreevatsa for abandoned babies & toddlers who were hitherto kept in the children's wards for want of an alternative; adoption services to rehabilitate these children; a home for challenged children who are not adopted.

These office bearers and members made significant contributions to the working and growth of SOFOSH during the 30-35 years they were on the managing committee. Around the year 1999-2000, many of the original members, who had been with SOFOSH for around 35 years, decided that it was time to start identifying younger, competent individuals and, after

observing their commitment and work as volunteers, take them on as committee members while some of the older members retired. The transition was fairly smooth, and, within 3-4 years, a younger committee was in place. Fortunately for SOFOSH, since the last 14-15 years, these 'new' members have proved to be as committed and as involved as the previous ones. They are meticulous about supervising SOFOSH's work and financial & statutory compliances.

Perhaps this attention to developing a second line for SOFOSH could be emulated by other NGOs?

Harsheela Mansukhani

Advisory Committee, SOFOSH ■■■



The first step in having an effective Board is ensuring that it is large enough to be able to brainstorm, but small enough to take decisions and implement them. In our experience, if a Board is too large it becomes unwieldy, and inevitably there

are a few members who are not actively involved. As such, it helps to be clear with each Board member on their specific role within the organization: have they been recruited for their influence (network) or for their specialised skill set? **At Apne Aap Women's Collective (AAWC)**, we selected Board members who had experience working with other NGOs, had knowledge of finance and accounting, and would be able to fundraise in their networks. It is essential that Board members be able to work as a tightly knit team. If we think a potential Board member is highly influential or skilled but their personality conflicts with existing Board members, we do not recruit them.

Potential trustees must be contributing members of the NGO for a period of at least one year before being formally invited to join the Board. The CEO of AAWC reports to the Board of seven trustees at formal quarterly meetings. However, we have found it more useful and practical to have a whatsapp group on which we communicate in real time about issues that crop up, so that important decision making is not delayed.

Over the years our Board members have contributed

significantly & played a critical role in the survival (sustainability) and growth of AAWC. They have helped us raise funds to open two centres, rendered support with the creation of a HR system, operational manuals, and fix back end IT issues, in addition to formulating a plan for strategic growth. As a Board member, one has to unpredictably don many unexpected hats! From solving an HR crisis to creating a volunteer protocol, you may have to help in any way the situation demands.

My biggest lesson as Board member has been understanding that in the evolution of an NGO, it is not only growth in terms of scale that should be seen as success. Sometimes one has to sacrifice scale for the sake of the quality of services being provided.

Ashika Mehta

President, Board of Trustees, Apne Aap Women's Collective ■■■

LEGAL NEWS

Partial suspension of Reverse Charge under GST

The Central Board of Indirect taxes and Customs (CBIC) has notified that the provisions relating to Reverse Charge Mechanism (RCM) under Section 9(4) of the CGST Act, 2017, Section 5(4) of the IGST Act, 2017 and Section 7(4) of the UTGST Act, 2017 have been further Deferred/ Suspended by Government for one year up to 30th September 2019.

However, it may be noted that there is only partial suspension of RCM and that there is no change in reverse charge provisions under Section 9(3) of CGST/ SGST Acts, Section 7(3) of UTGST Act and Section 5(3) of the IGST Act, relating to Goods Transport Agencies (GTA), Legal Services provided by an Advocate, etc.

In other words RCM will continue to be applicable to any business entity located in the taxable territory for services supplied by an individual advocate including a senior advocate by way of representational services before any court, tribunal or authority, directly or indirectly, to any business entity located in the taxable territory, including where contract for provision of such service has been entered through another advocate or a firm of advocates, or by a firm of advocates, by way of legal services, to a business entity.

Reverse charge means the liability to pay tax is on the recipient of supply of goods or services instead of the supplier of such goods or services in respect of notified categories of supply. Reverse charge mechanism under GST law is quite complicated.

A person who is required to pay tax under reverse charge has to compulsorily register under GST and the threshold limit of Rs. 20 lakhs, is not applicable to such a person. In other words, if a charitable organization wishes to engage the services of the lawyer and the lawyer's charges a fee of Rs. 5 Lakhs for his services, the charitable organization must first register itself under GST and pay GST on the basis of GST. ■■■

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Congratulations. Compliance Connect smart looking and well produced. But contents rather technical. The lighter, more general stories on fund raising, do's and don'ts missing. Need a balance, I feel as a lay person.

Jehangir Patel, Editor and Publisher, Parsiana Magazine

”

CSR grants from 'foreign companies' & 'MNCs'

Until the Finance Act 2016 (and subsequently Finance Act 2018) played “game changer”, if your organization received a donation or a grant from a company which was an Indian company registered under the Indian Companies Act, but, with more than fifty per cent share-holding by foreign investors, such a company was considered as “foreign source” under the Foreign Contributions Act (FCRA) 2010. The amendment came as a major relief to a lot of NGOs which were not registered or not wanting to register under FCRA 2010.



Root of the problem

The problem had its roots in the definition of what is “foreign source” under FCRA 2010. Section 2(1)(j)(vi) of FCRA 2010 treated any Company, even if registered under the Indian Companies Act as a “foreign source”, if more than fifty per cent of the company's share capital was held by foreigners.

However, Section 2(1)(j)(vi) has now been amended vide Finance Act, 2016 as also Finance Act 2018 to the effect that now “such company shall not be a foreign source”.

More confusion

Ever since this amendment, there has been more confusion rather than clarity around who is or is not a “foreign source”.

Many professionals seem to think and believe that

even a ‘foreign company’ or a ‘multi national company’ registered in India under the Indian Companies Act is now a local and not ‘foreign source’ as per FCRA 2010.

Opinion among professionals is sharply divided and even the Ministry of Home Affairs has not adequately cleared this ambiguity on its website.

“Foreign source” is defined in Section 2(1) (j) of FCRA, 2010 and it has ten sub-clauses. The amendment of 2016 and 2018 is only with regard to one sub-clause (i.e.: sub-clause (vi)

“Foreign source”, as defined in Section 2(1) (j) of FCRA, 2010 includes: -

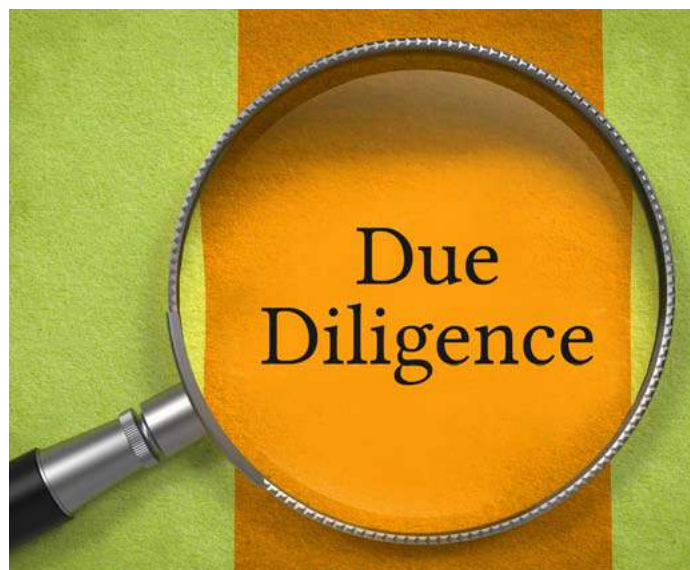
- i. the Government of any foreign country or territory and any agency of such Government;
- ii. any international agency, not being the United Nations or any of its specialized agencies, the World Bank, International Monetary Fund or such other agency as the Central Government may, by notification, 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 Section 2(g) sub-clause (iv) of FCRA, 2010;
- vi. a company within the meaning of the Companies Act, 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;
- 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 or individuals formed or registered outside India;
- x. a citizen of a foreign country.

The amendment under Finance Act 2016 is only concerning: sub-clause (vi) or a company within the meaning of the Companies Act, 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;

Thus, Indian companies which have more than fifty per cent foreign shareholdings are no longer treated as 'foreign source'.

However, a 'Foreign company' or 'Multi National Company' will continue to be treated as 'foreign source'.



What is foreign company & MNC?

Under Section 2(g) of FCRA 2010, **'foreign company'** means any company or association or body of individuals **incorporated outside India** and includes:

- (i) a foreign company within the meaning of section 591 of the Companies Act, 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.**

In Explanation to sub-clause (iv) [regarding multi-national corporation] FCRA 2010 states:

"For the purpose 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.

The law is what Parliament passes

Some professionals continue to hold the view that since the intent of the Parliament was to take all foreign companies out of the purview of FCRA 2010, contributions from MNCs and foreign companies are no longer deemed foreign contribution.

However, we are of the view that **unless Parliament specifically amends sub-clause (iii) (foreign company) and sub-clause (v) (multinational corporation) of Section 2(1)(j), both foreign companies and MNCs may be treated as 'foreign source' under FCRA 2010.**

The Finance Minister's speech only highlights the more important proposals of the budget. Those are not the enactments by the Parliament. The law, as enacted, is what is contained in the Finance Act. Only after it is legislated upon by the Parliament, that a proposal constitutes the authoritative expression of the legislative will of Parliament!

The Supreme Court of India in the case of Amin Merchant vs. Chairman, Central Board of Excise & Revenue (Civil Appeal Nos. 4676 - 4677 of 2013) has observed: "The speech of the Finance Minister and the financial/budget proposals duly passed by Parliament are two separate and distinct documents; the law, as enacted is what is contained in the Finance Act after it is legislated upon by the Parliament. Budgetary proposals constitute legislative material antecedent to the enactment of law. The Finance Minister's speech only highlights the more important proposals of the budget. Those are not the enactments by the Parliament. The law as enacted is what is contained in the Finance Act."

Exercise caution

Where Finance Act 2016 is concerned, Parliament has amended only sub-clause (vi) of Section 2(1)(j) and NOT specifically amended sub-clause (iii)

(foreign company) and sub-clause (v) (multinational corporation) of Section 2(1)(j) and therefore we suggest that organizations receiving CSR grants or donations from foreign companies or MNCs should exercise care and caution.

What to look out for

Both companies as also NGOs should understand that a company could be a 'foreign source' for any of the following reasons:

- a) The company is incorporated or registered outside India and is therefore a 'foreign company'. A foreign company would not become local source even if it is acquired by an Indian company or all its shareholders are Indian.
- b) Although registered under the Indian Companies Act, it could be a subsidiary of a foreign company.
- c) It could be a branch of a foreign company
- d) It could be a multi-national company controlled from outside India.
- e) It could even be an Indian company where foreigners hold more than fifty per cent share-holding, but the share-holding exceeds the FDI norms. ■■■

Due Diligence/compliance

1. Whenever your organization accepts CSR funds or donation from a company (even if registered under the Indian Companies Act) ask whether it is a 'foreign company' or a 'subsidiary of a foreign company' or a MNC.

2. If in doubt, obtain a letter in writing from the company or incorporate a disclaimer in the CSR grant agreement that the company is not a 'foreign source' under FCRA 2010. This may not absolve you in case the company does turn out to be a 'foreign source', however, it may help you to sleep better at night!



CAP Offers CSR Compliance advisory to companies and corporate foundations.
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BHARATIYA SAMAJ SEVA KENDRA



Vacancy in a leading position in a 40 year old Trust working for the well-being of vulnerable children and their families. Head Office in Pune and 3 branches.

If you have vision, integrity, decision making abilities and are a strategic thinker please apply for the position.

Requirements: A Master's in Social Work or related Human Sciences degree. Previous experience of working in the NGO sector in a leadership position for some years.

Work Description: Leading and managing all programmes in accordance with Trust activities

Key responsibilities: Overall programme development, guided by the Board of Trustees and also able to work with funding agencies and Govt. functionaries.

Remuneration: In accordance with qualification, experience and leadership ability.

Interested candidates may kindly apply to bssk@bsskindia.org

Tools you can use - Sample Job Description

A **job description (JD)** outlines the necessary skills, training and education needed by a potential employee. It also lists the duties and responsibilities of the job. Once a JD is prepared, it can serve as a basis (reference point or bench mark) for interviewing candidates, orienting a new employee and finally in the evaluation of job performance.

An **appraisal system** based upon job descriptions is likely to be fairer than one that is based on subjective factors such as stray anecdotal observation. JDs remove uncertainty and make the appraisal process more productive. For employees who are not keen on having their performance analysed, they cannot say that they didn't know what was expected of them.

(This is a sample template. Organisations are advised to make additions/deletions, modifications to suit their organisations.)

JOB DESCRIPTION	
Department	Marketing and Communications
Designation	Marketing & Communications Manager
Location	Mumbai
Purpose of the Role	To lead the development & implementation of marketing, branding and communication strategy for Save the City Foundation
Positions reporting to this position	Assistant Manager – Marketing and Communications

ACCOUNTABILITY & REPORTING RELATIONS	
Reporting & Accountability	CEO
Role & Responsibilities	<p>1. Marketing & Communication: Internal</p> <ul style="list-style-type: none"> - To draw up & present branding & communication strategy for all services of Save the City Foundation based on an understanding of the sector and the end consumer - Ensuring that all stakeholders are aware & are following the norms for branding and communication - Ensuring that branding & communication norms are effectively implemented in the organization - Being innovative to come up with ideas to enhance workplace branding <p>2. Marketing & Communication: External</p> <ul style="list-style-type: none"> - Standardize organizational communication / literature including but not limited to posters, brochure ware, handouts, office stationary, newsletters, presentation templates, websites, emails - To enhance & ensure strong social media presence - Media planning: To brief and manage roll-out of initiatives with the media agency - To work closely with operations to ensure that the brand is being presented strongly during execution of various programs and events <p>3. Vendor Management:</p> <ul style="list-style-type: none"> - To identify suitable vendors to execute initiatives for the marketing department after evaluating at least 3 different service providers and drawing comparisons to maximize benefit for the organization

	<ul style="list-style-type: none"> - To ensure that proper documentation and processes are followed while using vendor services - To extract accountability from vendors and take necessary action in case of issues - To authorize bills and invoices for vendors whose services have been used for the marketing department <p>4. People Management:</p> <ul style="list-style-type: none"> - To be responsible for resource planning, recruitment, induction, training and performance management of the team members for the marketing department - To be responsible for motivation and retention of team members - To be responsible to generate, report and analyze MIS reports to provide strategic inputs for the department - To best represent the Management and play an important role in internal communication - To take on additional duties and responsibilities as required by the management from time to time <p>5. Other responsibilities:</p> <ul style="list-style-type: none"> - Relationship Management: To manage internal and external relationships - Financial Management: Be financially responsible to systematically track budget and the expenses incurred in regard to brand - Internal Management: To design and implement internal processes for the smooth functioning for the marketing department
Delegated to this position	<ul style="list-style-type: none"> - To communicate with media and external agencies on marketing and branding initiative - To manage marketing budgets for the organization - To identify and present vendors for final approval - To pre-approve documents such as MOU, contract etc for vendors who work directly for the marketing function and present the same for final approval - To scrutinize & accordingly approve reimbursement claims of team members of the Marketing department - To decide & approve travel plans for team members of the marketing function - To receive and process leave requests for team members of the region

JOB SPECIFICATION	
Qualifications	Essential: Graduate with successful experience in the role outlined Preferable: MBA Marketing
Prior Experience	4-5 years Must have been in a managerial role involving-Operations, People management and implementation
Competencies	<ul style="list-style-type: none"> - Strategic Thinking - Developing and Coaching People - Resource Management - Result oriented - Team Working
Technical skills	<ul style="list-style-type: none"> - Strong marketing, branding and communication concepts - Knowledge about the social development sector - Writing skills - Written and verbal English

Giving Guidelines – Social Media Policy

Social media is a free promotional tool for your organisation that allows employees to share work-related photos and positive news on their personal social media channels. On the other hand, with lack of regulations and unclear norms, it can be detrimental in some cases. How then does one strike the balance for this double-edged sword?

Today increasingly more organisations have instituted a social media policy as part of their onboarding or human resources training efforts. Also called a social networking policy it is a code of conduct or basic social media etiquette for employees who post content on the internet either as part of their job or as a private person. A policy should provide practical advice to avoid issues that might arise by careless use of social media in the workplace.



To write your policy

1. Outline the **scope of the policy**. State clearly who this policy will apply to. *Nonprofits may want to include volunteers too.*
2. The **policy purpose** should indicate why this policy is instituted, the importance of following it and a brief and why it is being implemented. *You want to indicate that it is a safety measure.*
3. **Policy elements** should spell out what is defined as social media. Articulate the social media platforms used within your organisation and provide guidelines for that. *Your organisation may only be on Facebook, but others may be posting on Twitter or other platforms.*
4. List the **do's and don'ts/guidelines** for your organisation. *Try to provide reasons where you can.*
5. The **disciplinary action** for guidelines not followed

should be communicated in advance. *It is wiser and simpler to educate staff, volunteers on appropriate use and avoid penalising them.*

! KEEP IN MIND

Some policies may also define whether employees can use office time for personal social media. It is highly recommended that employees keep work related social media accounts separate from personal accounts, if practical.

Remember whatever you post on social media is often written in perpetual ink and cannot be permanently erased (even if it can be deleted). In the event that someone posts and deletes it a few minutes later, there's always the risk that someone took a "screenshot" of that post and began circulating it online. Sometimes even deleted posts can go viral.

Break your social media policy into two areas: Social media policy for the official accounts and policy for employees' accounts.

Here's a list of some common do's and don'ts that may be included in either section of your policy.

- While talking about the organisation, employees must adhere to the set communication guidelines.
- Keep your audience in mind. Before posting any content, know and follow organisation rules and ensure your postings are consistent with the above.
- Use your best judgment in posting material that is neither inappropriate nor harmful to the organisation, co-employees, volunteers or beneficiaries.
- Be honest and clear about who you are and what you do. Use your real name and avoid posting anonymously.
- One is not allowed to publish, post or release any information that is considered confidential or not public. If you are unsure, check with Human Resources Department.
- Respect privacy not just of the beneficiaries, but also co-employees who may not want to share information.
- Always exercise good judgement. Your posts are usually permanent. Even if you delete them later, they could have been shared by other, so remember that all posts are 'public'.

- While stating opinions make sure if it your own, it is clearly understood.
- Be respectful of comments of fellow group members and avoid alienating others with situations of conflict.
- If you are not an expert, avoid giving advice.
- Some posts may harm the organisation. You are requested to refrain from such posting.
- Avoid posting information, pictures of beneficiaries and their conditions.
- Social media networks, blogs and other types of online content sometimes generate press and media attention or legal or expertise related questions. Please refer these inquiries to authorized spokespersons within the organisation.
- Please get appropriate permission before you refer to or post images of current or former employees, members, vendors or suppliers, or other intellectual property.



Keep the following compliance aspects in mind

- Your policy should specify how your team will credit original sources if they are reposting or borrowing content from an external source.
- Privacy and disclosure procedures. Define what is considered confidential and non-sharable (e.g personal data of an employee on the NGOs)
- Employees must include a disclaimer when publicly commenting on content related to your cause that identifies them as an employee.
- Today social media security risks are common. Be alert. Make employees aware of the threats, how to avoid them, and what to do should an attack occur
- Ensure accountability for posting. Whether they're posting on behalf of the nonprofit or on their personal channels, it'll be the organisation's reputation that suffers.

Implementation

To conclude any policy is as good as its implementation. All employees/volunteers must be aware of the social media rules and regulations. Staff orientations must train on guidelines on how to talk about the organisation and its beneficiaries. What information can be shared and what is confidential. Avoid creating a document of DON'Ts. Instead, give your employees the tools they need to keep it safe and fun and boost the potential of social media. ■■■

- Social media law in India is regulated by the Information Technology Act which was enacted in the year 2000 to regulate, control and deal with issues arising out of use of information technology;
- "Social networking media" is an "intermediary" within the meaning of Indian Information Technology Act 2000 (IT Act 2000) and thus social networking sites in India are liable for various acts or omissions that are punishable under the laws of India.
- Section 66A of the IT Act was enacted to regulate social media and restrict transmission, posting of messages, mails, comments which could be offensive or unwarranted. However, in 2015, in a landmark judgment upholding the right to free speech, the Supreme Court struck down Section 66A of the Information & Technology Act, 2000.
- The repeal of Section 66A does not however result in an unrestricted right to free speech since analogous provisions of the Indian Penal Code (IPC) will continue to apply to social media online viz. Intentionally Insulting Religion Or Religious Beliefs (S. 295A), Promoting Enmity Between Groups On Grounds Of Religion, Race Etc. (S. 153A), Defamation (S. 499), Statements conducing to Public Mischief (S. 505), Insulting The Modesty Of A Woman (S 509), Criminal Intimidation (S 506), Sedition (S124-A), etc. ■■■

Making volunteer giving Compliance-Complete

With a perceptible increase in the scrutiny of NGOs in India it is important to adhere to some of the points enumerated here below while recruiting and managing volunteers, particularly international volunteers. **Rahul Chauhan, Strategy and Change Manager, Deep Griha Society, Pune** shares valuable tips based on their experiences, to make the giving experience a win-win for both the NGO and the volunteer.



Rahul Chauhan with volunteers of Deep Griha Society



COMPLIANCE

✓ Volunteer Coordinator Manual

We often discount the importance of systems and structure required for the volunteer's as it is not a paid role. While not strictly a legal requirement, a clear articulation of the responsibilities of the Volunteer Coordinator and Policies and Procedures to be followed would greatly smoothen day to day functioning for both volunteer and the NGO. It also allows for easy handovers between Volunteer Coordinators if the role is performed by Volunteers themselves.

✓ Type of Visa

It is absolutely crucial that organizations receiving international volunteers ensure that volunteers come on an Employment Visa with special endorsement to work as 'volunteer' with an NGO. Very often volunteers get a Tourist Visa as they seek to travel for some amount of time while they volunteer. This could prove disastrous for both the volunteer or the NGO, especially if something were to go wrong (e.g. the volunteer misbehaves at the NGO or meets with an accident while volunteering and legal action is warranted can be detrimental, not just for the volunteer, but also for the NGO.



COMPLETE

🔄 Interview

In order to ensure a volunteer fits with your organization's culture it is important to interview volunteers, especially if they are going to volunteer for a long time and are young, before you accept them. Do not hesitate to 'reject' volunteers if you feel there is a mismatch.

🔄 Co-value Creation

Often NGOs struggle to say 'No' to unsuitable candidates. In this process volunteers are left disappointed and unhappy with their experience. Depending on the capacity of the NGO, a lesser number of volunteers with the requisite skill would always be more beneficial for an NGO. Do not create unnecessary work for Volunteers as you are only creating work for yourself which detracts you from your Mission.

🔄 Ongoing Feedback

While one must seek formal feedback from volunteers at the end of their stints with the organization, a senior staff member must regularly meet every week with volunteers to seek their feedback and to ensure their active involvement in their assigned projects and tasks.

✓ The Appointment Letter

The letter appointing the volunteer may be less detailed than that of an employee but it must clearly and explicitly detail the volunteer's Role, Responsibilities, Duties and all the Dos and Don'ts in terms of discipline, ethics and what would not be tolerated at all (e.g. sexual misconduct, smoking or drinking while volunteering, racial or caste related comments etc.)

The language should clearly state that they are volunteering (i.e. they are voluntarily and of their own free will offering their time or talent pro-bono) and in the appointment should not be misconstrued as employment.

It should clearly indicate that there would be no form of monetary compensation or remuneration provided to the volunteer. However, the organization would reimburse the volunteer for expenses incurred by the volunteer in the course of his/her work, provided such expense is authorized in advance. An indemnity clause protecting the NGO and its Board and staff would also be desirable.

✓ Volunteer Code of Conduct

As part of the volunteer Manual it is important to clearly spell out the appropriate Code of Conduct desired from a volunteer, example – dress code, appropriate behaviour expectations, confidentiality, privacy, safety, emergency situations etc. This Code of Conduct must be read, understood and signed by volunteers before they join your organization to prevent the possibility of misunderstandings in the future.

✓ GDPR

With the introduction of GDPR in the EU, it is important for organizations to consider how they manage information collected on volunteers from the EU. While one may feel that the possibility of penalty or arbitration is low, it is important to remember that globally as well as in India Privacy laws are likely to mirror the GDPR in the future. Furthermore, it is only ethical to delete unnecessary data collected, ask for consent where necessary and prevent data leaks.

✓ Child Protection

Organizations working with children must ensure a thorough background check is done of each volunteer as per their Child Protection Policy. At the time of induction volunteers must be informed of your policy with regards to, maintaining privacy and confidentiality particularly uploading of selfies and photographs and videos with beneficiaries or inmates of NGO shelter or home, especially of children on social media platforms.

🔄 Cultural Differences

The bane of majority of your problems will be attributable to cultural misunderstandings. It is absolutely vital that volunteers are provided thorough orientation and sensitised to social issues. There is fine balancing required as not all cultural norms and ways are correct and some must be challenged. However, the journey to achieve this change involves a lot of understanding of the legacy of these norms which needs to be communicated at the opportune and in a concise manner.

🔄 Ambassadors

Volunteers often go on to become your most vocal Ambassadors when they leave the organization. However, until that time the hosting organization who invites a volunteer is responsible for the safety and behaviour of the volunteer in public. Having clear rules and communicating the reason for the often-perceived conservative rules would help allaying discontent and the possibility of problems arising. ■■■



Photo Courtesy: Deep Griha Society

Grantmaking – Giving Effectively

Until a few years ago grant-making was a fairly simple process. Also, it was restricted to just corporate, family or foreign foundations. However, post the Indian Companies Act 2013 several companies too have emerged as CSR grant-makers.

A high-energy, interactive session curated by CAP and moderated by Rukmini Datta (Chief Growth Officer, Start Up!) on 3 Aug 2018 turned the discussion around.



It brought together the voice of donors and touched upon: What do donors feel about the way donor-grantee relationships pan out and have developed over the years? How can we make the relationship more facilitative, effective and collaborative? How do donors respond to the challenges that NGOs face in responding to due diligence and reporting demands? What are the challenges that donor representatives face and how can they be overcome? Can and should the donor community come together to jointly address some of these issues and build an ecosystem that aids, rather than impedes, the mission of social change?

Each type of grant-maker has specific needs and expectations. A company making a grant with CSR funds must ensure that NGOs implement projects and programs which would enable to company to effectively report its CSR activity. An overseas grant maker must ensure that the grant recipient complies with the robust standards of transparency and accountability required under laws governing the overseas foundation abroad. Corporate and family foundations on the other hand are often bound by inflexible policies set by the company or the family.

However, one thread binds all the different types of grant makers and that thread is 'effectiveness'. But, once again standards and measures of effectiveness vary.

Also, effectiveness is tested at two levels:

- effectiveness of the implementing organisation (NGO) in execution and reporting and
- effectiveness of the program in bringing about the desirable or expected change.

We asked grant makers what in their opinion, is the key to effective grant making?

Rangoonwala Foundation (India) Trust-RF(I)T works on the premise of empowerment through development initiatives, regardless of race, colour, gender and religion. They aim to create facilities as well as facilitate processes that build capacities of marginalized urban and rural communities gearing them towards long term sustainability and socio-economic self-reliance.

Nisreen Ebrahim who heads their executive team felt: "A need based approach is the key. Understanding the context and situational parameters in which the organization is functioning and structuring the partnership accordingly with like-minded organizations is paramount."

India Foundation for the Arts (IFA) is a not-for-profit, independent, grantmaking organisation that supports research, practice and education in the arts and culture across India, since 1995. Similar views were expressed by **Menaka Rodriguez**, Head- Resource

Mobilisation and Outreach. "Effective grant making is participatory and one that takes inputs from the community. It is important that programmes remain relevant and address the needs and gaps in funding of the community we serve. We can do this through periodic evaluations, research that includes inputs from the field and expert recommendations that inform the design of our programmes."

Akhil Shahani, Managing Director, the Shahani Group was of the opinion, "Much of grant making is opportunistic, where foundations respond to NGO proposals as they come, without an overall plan. Ideally, foundations & philanthropists should define a clear "theory of change" where they identify which beneficiaries they want to help, in what way they should be helped & in which geography. Based on this, identify the most effective NGOs doing that work and help them with funds & other resources."

Vikas Patel is Unit Head-CSR at Essar Foundation. As a CSR grant maker he was clear that with respect to selection of the partner organization, it's understanding of the ground realities and the basic needs combined with community / beneficiary participation in the need identification and prioritization that holds the key.

He also emphasised the importance of a capable and effective team to implement as also the experience of the institution / organization to implement and manage program.

In short, he emphasised the significance of

- Mutual ownership of the program – Funder and the implementing organization in conceptualizing, implementation and management.
- Engaging key stakeholders for support and resource mobilization
- Learnings taken into account from other organization experiences of operating in the target area.
- Appreciating each other's strength for collaboration.



What are the challenges?

Every grant maker goes through the challenge of who to pick out among several eligible contenders. There is no dearth of NGOs, in fact there are way too many. However, the challenge is often in deciding which NGO among the short-listed ones would best deliver the expected or desirable goals and objectives of the program or project.

Also, most grant makers know and talk about due diligence. But, what are the due diligence tools and measures used by grant makers beyond looking at registration documents and financial records. What due diligence is exercised in terms of ensuring that both performance and reporting is optimized?

Wearing the family grantmaker hat, **Akhil** averred that the main obstacle that grant makers, like him, face is how to verify that funds are being used in the most effective manner. "Large NGOs which have strong reporting mechanisms may not need my funds as much as smaller NGOs & would have higher administration costs. Smaller NGOs may spend less on admin but may not have strong reporting mechanisms in place. Finding the right balance is tricky."

Menaka opined, "One of the many challenges that we face includes making grants to individual artistic pursuits that involves risk and placing faith in the individual's motivations and their larger vision for the project and therefore involves more rigorous and time intensive monitoring process. We are also continuously seeking to expand our reach and support underrepresented constituencies; and to ensure the foundation is accessible to multiple linguistic and cultural contexts across the country."

Based on his experience, **Vikas** had the following concerns.

- "Conceptual clarity and understanding of the issue / need/ requirement.
- High dependency of the organization on the funds.

- Sustainability of the efforts – convergence with other programs of Government / CSR programs.
- Faith and confidence in the organization.
- Financial capability and integrity of the organization.
- Board room approval for long term CSR intervention.”

Nisreen however was more optimistic; “If sufficient investment is made in jointly finalizing the partnership objectives, strategies and deliverables, then very few challenges remain. These then are related to the human element and time lines related to compliance related submissions.”

We asked about the level of due diligence/compliance they looked at, and if they would like to change it in any way.

Vikas said Essar looks at, “the organization’s level, its capacity, experience of working on the subject / issues, team, funders supporting, financial integrity, institutional set up and overall leadership.”

Nisreen felt they invest considerably in due diligence at the time of proposal whetting and Agreement formulation. “Thereafter, we prefer to base the partnership on mutual trust in the pursuit of a common goal. Our compliances are 6 monthly financial and programmatic reporting, need based interaction and financial and programme monitoring visits once or twice a year.”

Akhil mentioned, “Much of the diligence we do is based on looking at the NGOs audited financials, visiting their project locations and asking around about their reputation. It is difficult to go much deeper than that. I’m not sure if there is a better way to do this.”

Menaka’s organisation makes grants to both individual and institutions. “While it is easy to receive institutional, financial and audit information, evaluating the motivation, track record and impulse of the project/grantee will always be a challenge. We try to mitigate this by rigorous internal and external evaluation of all proposals. Every shortlisted proposal is sent out to at least two external evaluators with some knowledge of the project and/or the potential grantee’s body of work. With our internal processes and recommendations from the expert’s grant making decisions are made. We are always looking for ways to better these processes.”

NGOs often view grant makers as those who look at them from their ivory towers or through their corporate lenses. They often feel that grant makers are disconnected with ground realities and their expectations are often unrealistic or excessively demanding.

We enquired, if there was one thing grant makers could change in the way grant makers interact with NGOs, what would it be?

Nisreen kept it simple, “The shoe can be on the other foot anytime! Hence, while there should be no compromises on accountability and transparency-values that are very dear to RFIT, at times we feel grant receivers are not seen beyond the role of project implementers. That is a change we would like to see.”

Akhil envisioned “Grantmakers should not just see themselves as plain funders for specific projects. They should also work in building the capacity of the NGO by helping them hire the right people, sharing best practices & connecting them to useful resources. Grant-makers can get ideas from the venture capital industry, where they take an active role in helping their investee succeed.”



Vikas’s felt, “It can be changed with regard to the ownership of overall program. The onus of implementing the program should not only rely on the organization but it should be shared by the funder also and not limited to periodic report sharing, monitoring visit but, being part of the implementing team. We have to be part of the process and change the way we intend it to.”

Let the understanding of the subject / issue begin from scratch and the program develop with mutual understanding and learning by both. It will help in developing more confidence and trust from the very beginning of the project / program.

There is always scope of improvement that can be done from the initial stage and throughout the life cycle of the program. The ownership should start from the very beginning / conceptualization stage.”

While for-profit commercial & business organizations have long realized the many benefits that collaboration between organizations can bring, non-profit grant makers, especially in India, appear to be still lagging way behind. Collaborations have been known to provide peer learning opportunities, synergy, improving efficiency, strengthening programs, making optimum use of compatible skills & abilities and generally improve leadership skills. It also provides scope for sharing data, information and best practices.

We concluded by examining the scope for collaboration among grant makers to achieve the mission of impactful and long-term change on the ground?

Nisreen felt she would like to be part of co-funding projects that would lead to scale up. “Sharing experiences- good and / or bad, sharing to ensure that there is no duplication / overlap of funding. There is a lot of scope for regular sharing and networking which will help not only grant makers but grant receivers as well. It can simply start with a listing of who is funding what, where and at what scale.

Akhil sees merit in, “There is huge scope for having an industry association for grant-makers, which facilitates networking among them, sharing of best practices, providing educational opportunities and doing advocacy with the government. There can also be a common list shared within this association that recommends which NGOs are worth funding based on commonly agreed upon criteria.”

Menaka also concurs, “Through collaborative grantmaking and initiatives one can pool resources and expertise from diverse partners with shared visions. As long as there are shared values, a clarity of roles, and a collective responsibility in the success and failure of the programmes, collaborations can go a long way to extend the reach and impact of your programme and be a catalyst that drives change.”

Vikas feels. “Collaboration is the success mantra of current day. This can be done only if we are ready to start communicating, share our learnings, knowledge, resources and look beyond boundaries. At least it will save our resources, build trust amongst each other and the implementing partner, avoid duplicity of efforts, mutual appreciation of each other strengths and building a sustainable path for development for the last mile population.”

We conclude with Rukmini’s thoughts. The relationship between donors and NGOs is symbiotic yet, at times, spiked with doubt and even mistrust: they are intensely dependent on each other for the advancement of their goals, their representatives have entities of accountability which they cannot always control (Boards of a donor agency to whom the Programme Officer reports, and communities with whom the Programme Manager of NGOs work, respectively), and, more often than not, they begin on the premise of a trust deficit. Where the relationship can overcome these barriers, the most beautiful, facilitative and mutually supportive results emerge, which can ultimately help achieve the mission of positive change in the social sector. In any discussion around funding, formal or informal, NGOs talk about the difficulties of dealing with donors and the implication of their excesses in due diligence and monitoring, and the inability of donors to appreciate ground realities.

This has been the proverbial ‘first step’. But, as they also say, “the journey of a thousand miles begins with the first step” and we do realise as did poet Robert Frost, that we have miles to go before we sleep! ■■■

CAP plans to have a follow-up session for grantmakers in the coming quarter.

ASK THE EXPERTS



LEGAL

We are planning to either merge our Society with another Society or dissolve/wind up our Society. Our query is, if we merge with another Society, what will happen to the funds in our FCRA Bank account?



We would suggest that before you merge or wind up, please utilise all the funds in your FCRA Bank Account for your organisation's charitable activities or give it to another NGO with similar objects and having FCRA registration as a donation/grant. Make sure the funds in your FCRA account is NIL / Zero before you merge or wind up.

There is no formal procedure under FCRA to surrender Registration. However logical steps would be:

1. Exhaust all the funds in the FCRA Bank account.
2. Close the FCRA Bank Account.
3. File Final FCRA return in Form FC 4.
4. Inform MHA.



CORPORATE SUPPORT

Writing this mail in reference to the Kerala Floods. Does the State Disaster Relief Fund qualify under Section 135 CSR spend?



CSR Activities must be carried out within the framework of Schedule VII and contribution to "State Disaster Relief Fund" is not within the scope of Schedule VII.

2. Clause (viii) of Schedule VII covers: "Contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government for socio-economic development and relief and welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women.

Thus, Clause viii of Schedule VII restricts CSR related activities to contribution to any other fund set up by the Central Government and thus, by inference, does not cover State Government.



BOARD GOVERNANCE

How do we move and approve a board resolution?



The resolution has to be approved either:

1. At a duly convened meeting of the Board with the proper quorum or
2. By circular (print or electronic) with approval from the all or at least majority of the Board members.
3. This Resolution may be ratified at your duly convened Board meeting.
4. True Copy of the Resolution can be signed by any one or two Directors on the letterhead of your organisation if required by a bank or other institution.



FINANCE

In case of a merger, who keeps the financial documents collected over the years - ITRs, Audited reports, vouchers, receipts - and for how many years? Are these to be passed on to the new NGO or to be retained by us?



The organisation which will allow your organisation to merge into their organisation will keep all the financial and other records. At the time of merger all this can be recorded in the "Scheme" for merger.



HUMAN RESOURCES

Is there a mandated difference between the salary of lowest and highest paid employee? Or does the Charity Commission have any good governance guidelines on this?



The Charity Commissioner (CC) has no good governance guidelines on this subject. The CC's department is not a Labour or HR authority.



COMMUNICATION /REPORTING

We are a registered society in Maharashtra. With reference to communication with various Government and non-government organisations - what is most suitable reference - registration as a Trust or registration as a Society?



You are primarily registered as a Society. However, in Gujarat and Maharashtra, the Trust Act also applies to all Societies. Often

organisations state that they are registered as a Trust & Society. The correct way to state is – Yours is a Society under the Act of 1860 which is also registered under the Maharashtra Public Trusts Act 1950.



STRATEGY

As a team, we are divided on the vision statement. Some of us think it does not convey the correct message. Any suggestion to resolve this?



To get an objective view, you may send a copy of the proposed statement to about ten stakeholders and 4-5 persons not associated with your work and get their opinion on what it conveys to them.



VOLUNTEER MANAGEMENT

We have a lot of overseas volunteers over the year in our organisation. If they misbehave in a public place after hours, would we be liable?



If the volunteer misbehaves in a public place during his private time and not at your NGO or in the course of carrying out his role as volunteer, there would be minimal legal impact or liability on your organisation. However, if the offence is serious and goes to the media, the latter may name your NGO as having invited him/her to India as volunteer and this could be damaging to your NGOs reputation.



FUNDRAISING

Can an OCI donate funds to a NGO that does not have FCRA registration?



An OCI is inevitably a 'citizen of a foreign country' (but holding OCI card) and hence a 'foreign source' as per FCRA 2010 and as such cannot contribute to organisations not registered under FCRA even if in India and in Indian currency. ■■■

Disclaimer: Compliance is organisation specific, and subject to change. Therefore, it is best to read what the Centre for Advancement of Philanthropy (CAP) has elaborated here as a broad and generalised note. Consultation with the experts at CAP is recommended for your organisation specific legal or fiscal issues. Where legal issues are concerned, there is no standard response or solution that serves all.

compliance

This was the COMPLIANCE section of our newsmagazine.

connect

From this issue, we have dedicated a few pages each issue for NGOs to CONNECT their causes with our readers.



Thanks, We have received the hard copies of the CAP newsmagazine. It makes for an interesting read. Found articles useful especially Campaign for your Cause, (in the connect section) FAQ's etc. Delighted that we were featured last year (case study) and this year too.

Best Regards, Shaila. YUVA



Shaila's testimonial (above) is one of the many notes of appreciation, we received from our readers. From the last issue, CAP decided to dedicate a section for nonprofits we work with, as we realise NGO love to and need to connect. This issue, we feature NGOs that create products. These are not just products for NGOs to showcase their work, but also a chance for beneficiaries to learn and enhance their skills, in many cases their livelihood. When you buy, give, gift a handcrafted NGO product you give more than you opted for. You give a message of love, a sense of fulfillment, an opportunity to a beneficiary who may not have it and an most importantly a reason to stay connect. So open your heart and GIVE.



The organisation believes in growing dying crafts, which need a holistic approach that recognizes the root causes of the decline in the first place and then finds contemporary solutions to reviving, sustaining them.

Our beneficiaries are artisans from rural areas who have some unique art/craft and need a sustainable income.

The products help our beneficiaries... preserving their traditional craft and helping them earn livelihoods through the work they are good at.

We deal with challenges such as... training the artisans in contemporary designs, maintaining uniform quality and finding the right buyers.



The items in high demand...
black pottery stationary sets & Gond paintings.

A non-negotiable... quality of the finished product and the raw material and payments reaching artisans on time.

Quality control of the final product... is personally supervised by a team member before delivery.

Our marketing mantra... create an outstanding product, tell the story authentically, be fair in sharing the benefits with the artisans.

Our compliance ensures... no child labour, ensuring fair wages to the artisans, complying with regulations for NGOs.

To make our products stand out from other products we... invest time in designing, anticipating and defining trends. Giving a contemporary twist to the traditional handicrafts.

Our name... In Marathi eki means unity/unique and beki means duality/diversity. We achieve balance by bringing together things that have traditionally perceived to be at odds with each other. ■■■

Over last 1 year we have been creating a line of home accessories and decor, office accessories. | Price range: Rs 250 to Rs 2500+



Our organisation's philosophy stems from our core value that high quality and holistic healthcare facilities for cancer treatment should be available for all, regardless of their economic status.

We work with underprivileged families, with a cancer patient coming from villages across India. These families either sell their farms and properties or give up on their jobs when they come to Mumbai to be able to sustain themselves, in Mumbai during the course of their treatments.

The products made by our beneficiaries... helps in raising funds to keep providing free services to their families. Parents go through emotional turmoil through the treatment. Product making keeps them engaged and is a diversion and offers solace from the stress. The new skills acquired helps them earn a living once they return to their villages.

Three challenges we face ... developing newer products which are niche; challenge to procure the right raw materials which can be converted into our products; maintain quality standards keeping in mind to minimize the cost.

We do not compromise on... priority of the treatment of the beneficiary, product making activity is done only in their free time.

We manage quality control by... having a standardised operating protocol which starts from buying raw materials to making the products, followed by proper packaging and shipping it out to the ordered address. This is overlooked by a designated person to ensure quality standards.

Our marketing mantra... Supporting Cancer Bravehearts.

For our products we keep in mind... when the families come to the centre and services are provided to them, we ask about their interests and based on which their consent is taken to help with the product making activity.

We aim to create... new and unique designs every year and useful products which can be used by anyone and everyone. ■■■



Our bestseller... diwali diyas in new designs each year.

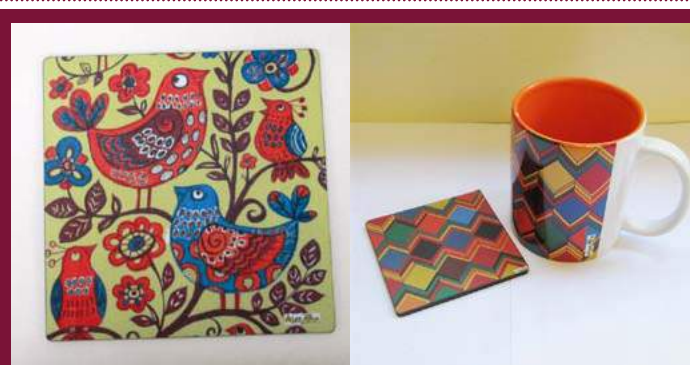
Our product range of 3 years includes - rakhis, diyas, torans. | Price range: Rs 125 to Rs 450.



Our belief is every child has a right to education and we work to improve the lives of underprivileged children through high quality value based education.

Our beneficiaries are first generation learners, so high quality education acts as a catalyst in uplifting their communities in the long run.

Our product range helps our beneficiaries... by instilling in them a sense of pride and achievement when they see people purchase and appreciate their art. Proceeds from sale of products helps fund our Education Programmes.



Our most popular product... coasters.

Our share of challenges... limited reach, lack of regular bulk orders, lack of adequate partnership with retail outlets to sell our products.

GST has changed the product cycle by... increasing our cost of procurement of products, as well as increasing the ultimate price paid by our customers.

We do not compromise on... quality of our products. Our quality control team ensures thorough quality checks are undertaken for each and every product.

Our marketing mantra... We do not say, "NO" to our customers & try to meet their requirements and gain customer trust.

Our products stand out through... the creative expressions of our children - when replicated on a wide range of products makes it a unique offering which has no parallel in the market. ■■■



Our belief is that given the opportunity and training, visually impaired can excel on par with society.

Our beneficiary profile - visually impaired children who are provided with training and education, to enable them to be self-sufficient and contributing members of Society.

Handicraft training gives our students... the opportunities to develop skills while simultaneously encouraging self-esteem of the student. We try to instil within each child, a sense of dignity that he will carry with him through life, by providing employment opportunities.

We are proud we have overcome... the challenges that confronted us initially. At the time of setting up of the project, we faced the usual concerns regarding finance for the project, getting the right instructors and recurring costs for the maintenance of all our extra-curricular projects.

One aspect we do not compromise on... quality of the product and our exclusive designs.

How we manage quality control... whereas, certain items do turn out defective, our Institution maintains high professional standards, likewise we set goals for the children which they are trained to achieve.

For our handicrafts we (legally) comply with... our products are made of environment friendly materials - no

plastic, lead or toxic raw materials. We do not copy patented products or designs.

Most of our handicrafts are... functional and not merely decorative. Each item is personally handcrafted by the students, not outsourced, has a professional touch and carries a school label. ■■■



Our fastest selling product is... handloom items.

Products made for 18 years, include stationery, kitchenware, handbags, T-shirts. | Prices range: Rs 150 to Rs 1000

Products in pottery, ceramics, mosaics, woodwork, handloom items and more since 40 years. | Price range: Rs. 50 to Rs.5,000



The core philosophy of our work is the belief that every child has a right to live a life of dignity; irrespective of their intellectual disabilities.

We cater to the entire spectrum of Intellectual Disability ranging from mild, moderate, severe to profound. Over 90% of our students have an additional disability such as autism, epilepsy, cerebral palsy and visual or hearing impairment. 84% of our students belong to the lower socio-economic strata.

The products made by our students... are sold by us in an attempt to create and spread awareness as well as to showcase the talents and abilities of our students. We pay them a monthly stipend based on their productivity thereby giving them a sense of dignity and feeling of self-esteem.

Our product making challenges are... marketing, limitation to manufacture timely in bulk thereby missing out on large orders /tie -ups, costs not being recovered in trying to keep up with competitive pricing.

Our marketing tag line... "When you see things differently and do things differently it makes all the difference."

We manage quality control by... volunteers are sensitized about the students' background and how products are a showcase of their abilities. All our products are handmade. Whilst checking the aesthetics and quality should be good enough for customers to want to use the products themselves and gift the products and finally come back and support the cause with not just an attitude of doing charity but because they appreciate the work done by the students. We provide for variations from item to item within a product line.

GST has changed the product cycle by... cutting down margins and increasing costs where small retailers are not GST compliant. It has also led to increase in tax rates in some product categories.

Our products are unique from the market... as we conceptualize and design our products keeping in mind our beneficiaries abilities. Coupled with competitive prices and sensitizing customers about intellectual disability has given us a loyal customer base. ■■■



Product range of 70 years include agarbattis, candles, paper bags, torans, keychains, dusters, batwas | Prices Range: Rs 50 to 1500



Seva's Approach is to make a difference within the community by saving tigers, wildlife and mother earth. Helping adivasis, providing them with the skills they need to become more independent of the forest's limited resources and live in harmony within their environment.

We work to create self-employment for those who are a part of nature, the real guardians of the forests - the people who live within the forests.

Products help our beneficiaries... to reduce their dependency on the forest. They are able to live in harmony and use the natural resources to make products out of waste and further benefit of earning within the forest area.

Challenges we face... transportation of goods within the forest area, strong marketing, training of beneficiaries, storage.



We actively promote our products by... networking at exhibitions, taking up any opportunity that comes our way to create awareness about the conditions of the tribal

people. We use social media as a platform to create further awareness.

Compliance means... no compromise in accounting or taxation. We have everything recorded from the time of purchase of raw material and the cost of selling.

We use the profits to... start new projects in the village and also hire expert teachers to train the women.

GST has changed the product cycle... as it gets accounted and the product cost does go up but it's a good thing as we all are able to track the sales, as billing becomes necessary.

We attribute our success to... being able to create different products not easily available in the market.

Our products have been appreciated in the market... as they are exclusive products and always in demand.

Through our products we also send out a message... to protect the existing wildlife. We educate the buyers about the Warli art and birds names through our hand painted trays. ■■■

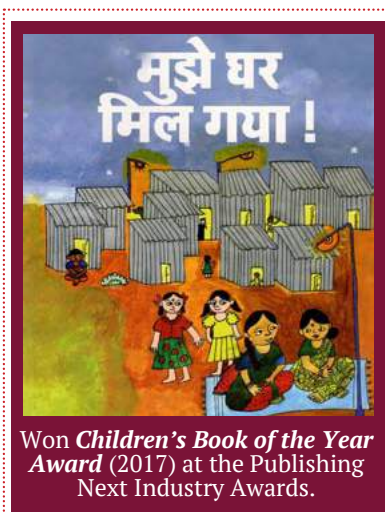
1-year-old range of home décor lights, hand painted trays, kitchenware, bird feeders, cloth bags, magnets jute coasters and more. Price range: Rs. 150 o Rs 650



We work to provide migrant children on construction sites a safe, happy, healthy childhood.

Our beneficiaries, as a result of their families' extreme poverty and parents' inability to sacrifice even a day's works, they are often left to fend for themselves. The perilous construction site is their only playground. They frequently suffer from malnutrition, undernourishment, accidents on the construction site, and numerous other health problems.

The idea of creating this book was born when... our staff members were looking through books to add to the MMC library and they realised that they could not find a single children's book which mentioned the children of migrant or construction communities.



Won **Children's Book of the Year Award** (2017) at the Publishing Next Industry Awards.

The funds received through sale of our books... will be used towards programmes benefitting children living on construction sites.

Our challenge... price of books is high, promotion of books through traditional media like newspapers/ TV/ Radio.

We ensured that... the content came from children attending our

daycare centres on construction sites, as this is their story. A series of workshops helped us understand their stories before our teachers framed the book together.

How we manage quality control... We printed these books just once. We made sure that the print was of the best quality by selecting publisher who is experienced in publishing children's literature.

We ensured we were legally compliant by... having registered for copyright of text and illustrations included in both these books. We have registered both books for ISBN and have printed valid barcodes on books.

This book will... introduce readers to the lives of children of migrant construction workers when they move from their homes in rural India. It will open the windows to the worlds beyond those we see and people beyond those we know.

Children living on construction sites... are invisible to the public as they remain hidden behind the high walls of the construction sites. They are one of the most vulnerable population among urban poor in India. ■■■

Published in April 2017 - Home Away from Home! (English Book) Mujhe Ghar Mil Gaya! (Hindi Book). Priced at Rs 250



Our organisation is founded with the belief that for every special-needs individual there should be acceptance, support, love and integration in society.

We enroll those special-needs adults who have been asked to leave other institutions due to age factor and low performance levels. These adults who have little or no family would regress if they were not gainfully employed. We take them into our care at the residential centre.

The products made by our beneficiaries are designed... to help our them improve their fine and gross motor skills thus honing their abilities in basic life skills, improving attention span, boosting self-confidence, earning a livelihood as we pay them a reasonable compensation enhancing their self esteem.

Product making can suffer from... Low production at times, since a lot of our beneficiaries are low functioning. Also, very often they have mood swings and getting them to do anything is a hurdle.

The end product should be... perfect. "If it looks like something I won't buy then I cannot expect someone else to, is a motto we work with."

Our marketing mantra... Help those who Help themselves

Our safety measures... not using any harmful chemicals/ products, operation of any machinery under constant supervision. Staff aware of all beneficiaries' medical conditions and a emergency first aid box is within easy reach and available at all times.

One compliance aspect we don't overlook... All parents/guardians are made to sign an indemnity bond for any untoward accident or injury despite all precautions taken by the institution. Since their ward is engaged gainfully in production of simple products and are paid a stipend, parents understand and comply. ■■■



Since last 5 years we have been making - bags, envelopes, coasters, seasonal products & trays. | Price Range: Rs 50 to Rs 1800



Aftertaste was born with the philosophy to use art and craft to diminish the disparity of opportunities and create financially stable, healthy and empowered communities.

We work with struggling homemaker women, completely unskilled, no literacy, never held a pencil in their hand, no opportunity to learn, step out or earn a dignified living and battling daily existential challenges in the slums of Mumbai.

We make opportunities... for multifaceted growth - economic means, knowledge and exposure has built aspirations and enhanced their sense of self-esteem and confidence. Involved in product making from the beginning to end sales at corporate venues gives them immense pride in their work which empowers them to transcend many social barriers.

The work equips them with... awareness and knowledge to create a financially sound life for their families, in turn ensures that their children are educated formally leading to future stability. Fulfilling this financial deficit drastically changes their mindset.

It was an extremely steep learning curve for the women... adhering to processes like timeliness, collaboration and putting team before self, as the model requires working in a common space every afternoon in a collaborative manner through team work. They had to learn these skills, retain the knowledge and become productive enough to create saleable high-quality handmade products.

Our compliance ensures... All our income and expenditures are accounted and audited. The products and

the process of manufacturing do not contribute any waste to the environment and they do not use any plastic.

Our marketing mantra... Buy something Nice, Do something Good.

The name Aftertaste... When you purchase a hand crafted product and experience it over a period of time, we urge you to spare a moment of reflection for the transformation of a mere piece of paper to a beautifully handcrafted, handpainted utilitarian product and the transformation of its creators - women who could not fulfil their own dreams due to circumstance but now aspire for a better life for their families. That's how you enjoy the lingering aftertaste. ■■■



Best selling item... Lamps.

Over 5 years of handmade artistic paper products (home décor, decorative items, stationary & more) | Price range: Rs 20 to Rs 700

GUNVATI JAGAN NATH KAPOOR FOUNDATION

WE ARE LOOKING FOR:
Community Service Coordinator
Community Program Manager

Send your resumes on ganesh@gjkapoor.org



(continued from the front inside cover)

The Happy Home & School for the Blind was established in 1925, primarily to rehabilitate blind street children. Situated in Worli, Mumbai, over the years, the school has become a pioneer role model education institution in our country.

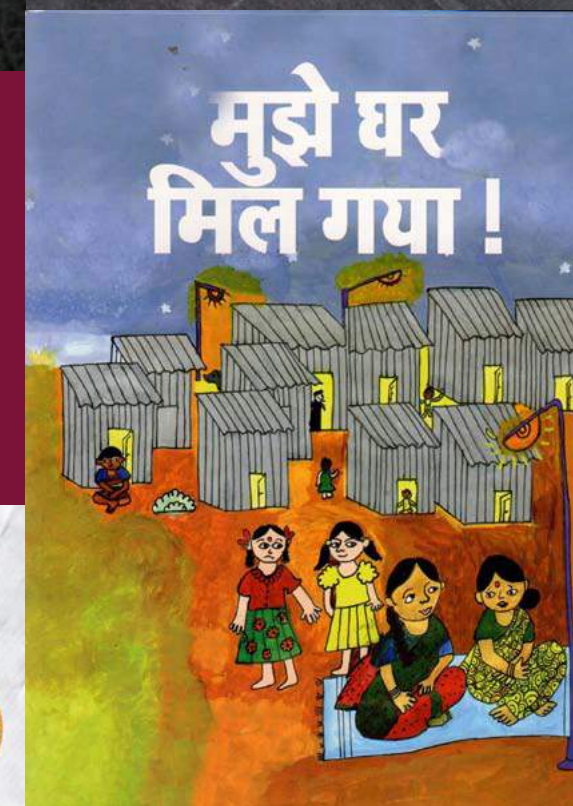
We reach out to about 150 visually impaired students upto Std.X, who are resident at the school.



Access Life Assistance Foundation supports underprivileged families with children undergoing treatment of cancer. Through our 5 centres (one more coming up soon), we provide free accommodation, secure transportation, nutrition and psychological & emotional support. Since our inception in 2014 we have catered to 735 beneficiaries which includes 245 children and their parents.



Seva Charitable Trust is into conservation of wildlife & environment. We work with about 130 tribal women & youth from Sanjay Gandhi National Park forest area. Our core philosophy is to find practical solutions for the ever-growing conflicts between humans, wildlife nature and forest, to educate people about importance of every animal to be free and not in cages.



At Aftertaste our primary focus is empowerment of marginalised and economically challenged women. A dignified livelihood is generated by them through art and craft. In the process unskilled women in poverty-stricken slums have been transformed into artisans and artists, against a backdrop of empathy and democracy. Till now Aftertaste has empowered 40 women impacted 150 family members.



Mumbai Mobile Creches, is a 45-year old non-profit working with children of migrant workers living on construction sites in Mumbai, Navi Mumbai and Thane. We currently have 20 day-care centres reaching 900 children with comprehensive programmes catering to their educational, nutritional and healthcare needs. Early childhood care and education is a key area of focus.

