

“Is HINDI a ‘Vernacular Language’?”

(Core issue w.r.t New process of registration of Charitable Institution Under Income-tax)

OVERVIEW:

This is with reference to the new process of registration of 12AB, approval of 80G and 10(23C) under Income-tax 1961, as per “The Income-tax (6th Amendment) Rules, 2021” notified by Central Board of Direct Taxes (CBDT) vide Notification Dated 26th March, 2021.

As per these rules, certain documents are required to be uploaded while filing application of registration of 12AB, approval of 80G and 10(23C) in Form No. 10A and renewal of registration of 12AB, approval of 80G and 10(23C) in Form No. 10AB.

Although, there is nothing specific prescribed in the said Notification, with respect to translation of Hindi documents in English language. However, as per the ‘General Instructions’, which are appearing at Income-tax portal, towards filing of Form No. 10A, the portion of ‘relevant instruction’, mentioned in this regard is as under:

*If original document is illegible or in **vernacular language**, please ensure to upload a English translated version.*

Confusion on this requirement (translation of Hindi to English) also gets increased, due to the fact that recently the Income-tax Department had been asking for English translations of Hindi Documents submitted by the assessee, during Scrutiny proceedings, in some cases.

This is going to be a vital issue, which is to be faced by many Charitable Institutions like, Trust and Society, at the time of filing of application under new process.

ISSUE OF CONSIDERATION:

In this article, we will discuss the following issues, which are very important:

1. Whether original documents available in Hindi language are to be considered as ‘documents in vernacular language’ or not?
2. Whether translation of the same into English language is necessary?
3. Whether submission of documents in Hindi language, may invoke rejection of application or lead to delays in granting registration/approval?

ANALYSIS

In a country like India, where Hindi Language is used very extensively, in major parts by the public at large, and is also the Mother Tongue and National Language, it should not be expected from a citizen of India, to translate the documents from Hindi language to English language. It seems impractical and also unjustified.

Ideally, this arrangement, should be ensured by the Income-tax Department itself, through “RAJ BHASHA VIBHAG – Department of Official Language”, which comes under the Ministry of Home Affairs, Government of India.

No single reference could produce the direct answer to this issue. Due to this,-various relevant contents or references have been taken as a base, Like Constitution of India, dictionary meanings etc., for the purpose of understanding and to create an unbiased opinion that whether Hindi language is a ‘vernacular language’ or not:

1. **Reference First - Dictionary Definitions of ‘Vernacular’:**

1.1 As per Cambridge Dictionary

the form of a language commonly spoken by the people of a particular region or by a particular group, esp. **“when it is different from the standard language.”**

1.2 As per Merriam Webster

- a) using a language or dialect native to a region or country rather than a literary, cultured, or foreign language
- b) of, relating to, or being a **“nonstandard language”** or dialect of a place, region, or country
- c) of, relating to, or being the normal spoken form of a language

Finding – ‘Vernacular Language’ shall be a nonstandard language.

2. **Reference Second - Constitution of India:**

2.1. Recognition by Union

- a) **Article 343** of the Constitution of India says that the **official language of the Union shall be Hindi in Devanagari script.**
- b) **Article 344** of the Constitution of India says that the President of India by order shall constitute a commission and it shall be the duty of the Commission to make recommendations to the President as to **the progressive use of the Hindi language** for the official purposes of the Union;

restrictions on the use of the English language for all or any of the official purposes of the Union etc.

- c) Also, **Article 351** provides that **it shall be the duty of the Union to promote the spread of the Hindi language**, to develop it so that it may serve as a medium of expression for all the elements of the composite culture of India and to secure its enrichment by assimilating without interfering with its genius.

2.2. Recognition of Hindi in States

- a) **Article 345** states that the Legislature of a State may by law adopt **any one or more of the languages** in use in the State or **Hindi as the language** or languages to be used for all or any of the official purposes of that State.
- b) **Article 346** further states that if two or more States agree that the Hindi language should be the official language for communication between such States, that language may be used for such communication.

Finding – It shows that usage of Hindi in official communications has been promoted in the Constitution of India itself.

3. **Reference Third - Official Language Act, 1963:**

It extends to Whole of India except Tamil Nadu.

Section 3(1) provides that

Notwithstanding the expiration of the period of fifteen years from the commencement of the Constitution, the English language may, as from the appointed day, continue to be used in addition to Hindi.

Finding – From the above, inference can be drawn that Hindi has been given priority over English in the statutes.

4. **Reference Fourth - Official Languages Rules, 1976:**

Rule 8(2) - No Central Government employee possessing a working knowledge of Hindi may ask for an English translation of any document in Hindi except in the case of documents of legal or technical nature.

Finding – From the above, inference can be drawn that no translation of Hindi Document is required to be provided, until & unless, specifically asked for. The same should not be demanded in general.

CONCLUSION

1. Hindi is recognised as official language used in Government Departments, has vast literary works and is Mother Tongue of vast masses of people in India. Thereby, can be considered as ‘Standard Language’, and is **therefore not a non-standard language as per Finding of Reference First**. It cannot be called a vernacular language.
2. Taking into consideration **Findings of References Second, Third and Fourth**, Hindi language cannot be called a vernacular language, as the Constitution of India and Official Language Act, 1963 contemplates to promote use of Hindi language in comparison to other languages.
3. As per the data of 2011 Census, in India, Hindi is spoken by 57.10% of the population against English, which is spoken by 10.60%.
Therefore, in our understanding, we can draw conclusion that, if a language is considered vernacular due to its limited use by small portion of society (i.e. particular region or by a particular group), then, English should also be considered a vernacular language in India, because it is has far lesser reach. Moreover, only 0.02% of Indian population has English as their first language.
Apart from this, languages like Urdu, Punjabi, Sindhi, Marathi, Marwari, Assamese, Kashmiri, Konkani, Nepali, Oriya, Santhali, Tamil, Telugu, Benagli, Malayam etc., which are used by the particular community, region, class of person can be covered under the category of the vernacular language, to this requirement. However, view of the Income-tax Department will be the deciding factor in this regard.
4. The requirement at Income-tax portal mentions translation of ‘original documents in vernacular language’ into English, while filing Form No. 10A with respect to new process of Re-registration.

The words – ‘original documents’ does not preclude documents issued by Income-tax Department which also form part of submissions. And, the fact, which should be noticed is that, many of the orders under section 12AA,

approvals under section 80G and 10(23C), were issued by Income-tax Department in Hindi, in past.

It thus raises the question that whether registration certificates and approval order issued by the Income-tax Department in Hindi shall require such translation or not. Therefore, it is ironical to believe that documents once issued by Income-tax Department itself are now requiring translation from Hindi to English, to make these documents understandable.

5. Therefore, in view of all of the above discussions, we are of the considered opinion that translation of Hindi documents is not required to be provided until and unless specifically asked for, and Income-tax Department should also surely come out with some clarification, at least for the documents in Hindi language. However, one may differ with our view in this matter and we respect that.

6. Still, if in case, Income-tax Department finds any issue with respect to any document, that the same is in Hindi language, a separate window is likely to be provided, where assessee can respond accordingly. Therefore, in view of this, we advise that there is no requirement of translation of at least Hindi documents into English for filing Form No. 10A, at the initial stage and wait for the response of the Income-tax Department.

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