

DONATIONS THROUGH UPI AND QR CODES

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CAN DONATIONS THROUGH BANKING CHANNELS BE ANONYMOUS



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CONTENTS

1. Overview	01
2. What is “Anonymous” in Digital Era?	01
3. Origin and Framework of Section 115BBC	02
4. Definition of “Anonymous Donation”	03
5. The Paradox of Legal Anonymity in a Digital Traceable Era	03
6. Legal and Compliance Requirements: Beyond Section 115BBC	04
7. Judicial Outlook: Substance over procedure	05
8. Operational and Compliance burden on Charitable Institutions	05
9. Legislative Intent vs. Ground Reality	06
10. Reform Oriented Solutions: A tiered compliance approach	06
11. Wider implications: Transparency, Accessibility and Data Privacy	07
12. Changing Donor Behaviour in light of Section 115BAC	08
13. Doctrine of Impossibility: Legal limits of compliance	08
14. Doctrine of Substance over form: Assessing true compliance	09
15. Conclusion	10

OVERVIEW

- 1.01** This issue critically examines the continued relevance and application of Section 115BBC of the Income-tax Act, 1961 in the context of India's evolving digital donation landscape. Introduced in 2006 to combat the influx of unaccounted cash through charitable institutions, the provision imposes a 30% tax on "anonymous donations." However, in 2025, most donations are made through traceable, KYC-compliant digital channels like UPI and bank transfers.
- 1.02** The article highlights the legal paradox where such technologically traceable donations may still be treated as "anonymous" purely due to administrative limitations in recording the donor's name and address. Through doctrinal principles such as Substance Over Form and Doctrine of Impossibility, supported by key judicial precedents, the paper argues for a policy and interpretive shift. It also considers compliance burdens on NGOs, privacy concerns, and behavioural shifts under the New Tax Regime.
- 1.03** In light of these challenges, it recommends tiered reporting thresholds, digital traceability recognition, and exemption for micro-donations via regulated systems. The article urges a legislative rethink to preserve the integrity of Section 115BBC while aligning it with the realities of modern financial infrastructure and donor behaviour.

WHAT IS "ANONYMOUS" IN THE DIGITAL ERA?

- 2.01** Historically, anonymity in charitable giving was conceptually simple. Contributions made in cash, particularly through donation boxes placed by charitable institutions, were accepted without the need to identify the donor. This was a norm, not an exception, rooted in tradition and trust.
- 2.02** However, the advent of digitisation has fundamentally transformed the financial ecosystem. In 2025, most financial transactions, from retail payments to philanthropic

contributions, are routed through structured digital payment systems such as UPI, net banking, or wallets. Every transaction leaves behind a verifiable digital footprint, including timestamps, account identifiers, and traceable references.

Yet a critical question persists in tax jurisprudence and regulatory oversight:

“Can a donation, made through a fully traceable banking channel, still be classified as ‘anonymous’ under the prevailing legal framework?”

This question becomes even more pertinent when considered in the light of the statutory construct and judicial interpretation of ‘anonymous donations’ under the Income-tax Act, 1961.

ORIGIN AND FRAMEWORK OF SECTION 115BBC

- 3.01** The genesis of Section 115BBC can be traced to concerns raised by various expert bodies, including the Wanchoo Committee, which underscored the potential misuse of charitable institutions for laundering unaccounted income. The Finance Act, 2006, introduced Section 115BBC into the Income-tax Act, 1961, effective from Assessment Year 2007–08, as a response to such concerns.
- 3.02** The objective of this provision was to enhance financial transparency and curb the channelling of untraceable funds through charitable entities. The section imposed a flat rate of tax at 30% on anonymous donations received by certain specified institutions, without any allowance for deductions or set-offs under any other head of income.
- 3.03** Recognising the operational challenges faced by genuine institutions, particularly in capturing the identity of every small donor, the Finance Act, 2009, introduced a threshold exemption. Donations would not attract tax under Section 115BBC if they did not exceed 5% of the total donations received or Rs. 1 lakh, whichever is higher. This amendment acknowledged that absolute compliance in all cases might not be feasible.

DEFINITION OF “ANONYMOUS DONATION”

- 4.01** Section 115BBC(3) defines an “anonymous donation” as any voluntary contribution referred to in Section 2(24)(iia), where the institution receiving such contribution does not maintain a record of the identity of the person making the donation, including the name, address, and such other particulars as may be prescribed.
- 4.02** No additional particulars beyond name and address have been statutorily prescribed. Therefore, legally, a donation is considered anonymous only if the recipient institution fails to maintain a record of the donor’s name and address.
- 4.03** It is also essential to distinguish between anonymous donations and unaccounted donations. An anonymous donation, while properly recorded in the accounts of the recipient institution, may lack identification details of the donor. On the other hand, an unaccounted donation refers to funds that are not recorded in the financial records at all.

THE PARADOX OF LEGAL ANONYMITY IN A DIGITALLY TRACEABLE ERA

- 5.01** Imagine a charitable trust conducting a public fundraising event. Hundreds of well-meaning individuals contribute via UPI or QR code scans. The money is credited into the trust’s bank account, and each transaction carries with it a complete digital trail—transaction ID, time stamp, originating account number, and often even metadata linking to the donor’s name (as held by the bank or payment gateway).
- 5.02** Nevertheless, if the trust fails to extract and record the donor’s name and address in its own systems, the donation may still be treated as anonymous under Section 115BBC. This leads to a jurisprudential and policy paradox:

“Can a donation that is technologically traceable and sourced through a KYC-compliant system be considered anonymous in the legal sense merely because the recipient failed to manually log donor details?”

- 5.03** While digital infrastructure provides robust traceability, the law continues to impose

liability based on manual record-keeping by recipient institutions. This contradicts the original legislative intent behind Section 115BBC, which aimed to unearth concealed sources of income, not to penalise the lack of redundant data entry from transparent systems.

- 5.04** In essence, the law begins to penalise procedural absence over substantive visibility. It raises a fundamental jurisprudential question: should compliance be judged on the availability of data within the system or the manual ability to extract and record it?

LEGAL AND COMPLIANCE REQUIREMENTS: BEYOND SECTION 115BBC

- 6.01** While Section 115BBC requires maintenance of name and address, the compliance landscape has expanded significantly over the years:

- The CBDT Notification No. 94/2022, dated 10-08-2022, introduced Rule 17AA, mandating charitable institutions to maintain detailed records of voluntary contributions, including:
 - (a) Name of the donor
 - (b) Address
 - (c) Permanent Account Number (PAN), if available
 - (d) Aadhaar Number, if available
- Further, institutions are now obligated to file an Annual Statement of Donations in Form 10BD, which requires reporting the unique identification number of each donor. Merely recording the name and address is insufficient; compliance with Form 10BD assumes the existence of PAN, Aadhaar, or another prescribed document.

- 6.02** In *Radhakrishna Akshar Vikas Nyas v. Asstt. CIT*[2024] 161 taxmann.com 739 (Indore ITAT), the Tribunal observed that the absence of PAN or bank details does not automatically render donations above Rs. 50,000 anonymous, provided the trust has maintained a proper record of names and addresses.

JUDICIAL OUTLOOK: SUBSTANCE OVER PROCEDURE

- 7.01** In *CIT (Exemptions) v. Patanjali Yogpeeth (Nyas)*[2017] 87 taxmann.com 54/[2018] 252 Taxman 317/402 ITR 164 (Delhi), the assessee received over Rs. 13.68 crore through yoga camps and coupon sales. The Assessing Officer sought to classify a significant portion as anonymous on the grounds of incomplete donor particulars.
- 7.02** However, the assessee had maintained a list of names and addresses, filed affidavits from organisers, and submitted video footage of the camps. The Court held that:
- Procedural shortcomings cannot override substantive compliance.
 - Alternative corroborative evidence, even if not in the form of PAN or Aadhaar, may suffice.
- 7.03** The Court emphasised that the purpose of Section 115BBC is not to penalise administrative lapses, but to deter the routing of illicit funds through charitable entities.

OPERATIONAL AND COMPLIANCE BURDEN ON CHARITABLE INSTITUTIONS

- 8.01** Grassroots and mid-sized charitable institutions often lack the technological and administrative infrastructure needed to manage the increasingly complex large-scale compliance requirements. Many operate with volunteer-driven teams or minimal administrative setups.
- 8.02** Reconciliation of hundreds or thousands of micro-transactions requires:
- Access to bank-level or payment gateway-level donor metadata
 - Software integration with CRM systems or donation portals
 - Manpower to extract, validate, and report identity-level information
- 8.03** Such institutions are effectively penalised under Section 115BBC for administrative incapacity, not for financial non-compliance. The concept of materiality must play a role; equating a Rs. 100 QR-code donation with a Rs. 10 lakh cash contribution, from a compliance burden standpoint, is fundamentally disproportionate. This calls

for a broader review of whether blanket identity requirements are suitable in a high-frequency, low-ticket digital donation ecosystem.

- 8.04** The recipient organisation lacks any operational or legal mechanism to direct banks or payment aggregators to provide name and address information derived from the donor's KYC records. In other words, this situation reflects the inaccessibility of donor data rather than anonymity. When such donor data is unavailable and the transaction size is small, say, less than Rs. 5,000, the original rationale for establishing source credibility becomes redundant, as in traditional Hundi systems. The authenticity of the source is no longer in doubt due to the systemic traceability of digital banking networks.

LEGISLATIVE INTENT VS. GROUND REALITY

- 9.01** The Explanatory Memorandum to the Finance Bill, 2006, which introduced Section 115BBC, clarified that the provision aimed to tax "unaccounted money" flowing through institutions enjoying tax-exempt status.
- 9.02** This context is critical: the mischief targeted was the deliberate concealment of identity to introduce unaccounted funds into the system, not digital micro-payments made through traceable, KYC-backed channels.
- 9.03** In contrast to 2006, today's banking system mandates KYC for account opening. Hence, a digital donation inherently carries the identity footprint of the donor at the source.
- 9.04** The legal architecture must evolve to reflect this systemic transformation, ensuring that outdated definitions do not override functional transparency.

REFORM-ORIENTED SOLUTIONS: A TIERED COMPLIANCE APPROACH

- 10.01** A legislative rethink is essential to ensure the law keeps pace with the digital transformation of financial systems.

Recommendations include:

- **Small Value Exemption:** Automatically exclude donations under Rs. 5,000 through banking channels from the anonymous classification, if aggregate digital trails are retained.
- **Digital Identity Substitution:** Accept traceable transaction data as prima facie evidence of donor identity, instead of requiring separate manual entry.
- **API-Driven Data Sharing:** Permit or mandate payment aggregators to provide KYC-linked data access to verified charitable institutions.
- **Threshold-Based Audits:** Allow identity documentation only above a specified contribution amount, with lower-tier donations subject to lighter reporting norms.

WIDER IMPLICATIONS: TRANSPARENCY, ACCESSIBILITY, AND DATA PRIVACY

- 11.01** Over-implementation of identity requirements risks deterring donors from using digital modes. Privacy-sensitive individuals may revert to cash or withdraw from philanthropy altogether.
- 11.02** Further, requiring small organisations to maintain databases of PANs and Aadhaar numbers raises critical concerns around data protection, cybersecurity, and liability, particularly in light of the emerging legal framework under India's data protection regime. Ironically, in striving for transparency, the law may be obstructing it.
- 11.03** A revised legal definition should distinguish between:
- (a) Untraceable donations (truly anonymous),
 - (b) Digitally traceable donations not recorded due to operational lapse, and
 - (c) Traceable and recorded donations.
- 11.04** A modern legal approach should categorise donations based on risk, traceability, and scale. Only category (a) donations truly devoid of source identity should trigger penal taxation.

CHANGING DONOR BEHAVIOUR IN LIGHT OF SECTION 115BAC

- 12.01** With the growing attractiveness and widespread adoption of the concessional tax regime under Section 115BAC, many individuals no longer claim deductions under Chapter VI-A, including Section 80G, for donations made to charitable institutions. As a result, donors increasingly prefer not to furnish their PAN or Aadhaar at the time of making such contributions, since there is no tax incentive for doing so under the New Regime.
- 12.02** This behavioural shift signals an important transformation: the primary motive for charitable giving is no longer tax optimization, but rather genuine philanthropic intent. This trend has only intensified following successive amendments that have made the New Regime the default and more beneficial option for a large section of taxpayers.
- 12.03** Consequently, the assumption that all bona fide donors would voluntarily share their complete identity solely for statutory reporting, despite deriving no personal benefit, may no longer hold true. This is particularly evident given that the default status of the new tax regime under Section 115BAC(1A) discourages itemised deductions altogether.
- 12.04** The voluntary nature of giving, when decoupled from tax deduction claims, complicates the institution's ability to collect and maintain such particulars, raising a practical conflict between donor privacy and statutory compliance.

DOCTRINE OF IMPOSSIBILITY: LEGAL LIMITS OF COMPLIANCE

- 13.01** Law does not compel the impossible, especially where access lies beyond the assessee's operational control.
- 13.02** The classical legal doctrine, *lex non cogit ad impossibilia*—the law does not compel a person to do the impossible—offers a relevant interpretive lens.
- 13.03** Compliance obligations must be relaxed if donor identity exists with the regulated financial intermediary (e.g., the bank), but it is practically unfeasible for the NGO to

retrieve and record this information for every small digital contribution. Otherwise, the law ceases to be a facilitator of transparency and instead becomes an instrument of disproportionate punishment for procedural impracticability.

13.04 In support of this, the Doctrine of Impossibility (*Lex Non Cogit Ad Impossibilia*) becomes particularly relevant. As recognised by the Supreme Court in cases like *Life Insurance Corp. of India v. CIT*[1996] 85 Taxman 313/219 ITR 410 and *State of MP v. Narmada Bachao Andolan* [2011] 7 SCC 639, the law cannot compel the doing of the impossible.

13.05 The Apex Court in the matter of *Directorate of Enforcement v. Deepak Mahajan* [1995] 82 Comp Cas 103 (SC) observed as follows:

“Though the function of the Courts is only to expound the law and not to legislate, nonetheless the legislature cannot be asked to sit to resolve the difficulties in the implementation of its intention and the spirit of the law. In such circumstances, it is the duty of the Court to mould or creatively interpret the legislation by liberally interpreting the statute.”

13.06 Where the collection of granular donor-level data, such as PAN/Aadhaar, is practically unfeasible due to systemic limitations, the institution should not be penalised. The law must distinguish between wilful non-compliance and procedural impossibility caused by infrastructural constraints or the voluntary non-disclosure by donors (especially in the absence of any tax benefit under the New Regime).

DOCTRINE OF SUBSTANCE OVER FORM: ASSESSING TRUE COMPLIANCE

14.01 The judicially recognised Doctrine of Substance over Form dictates that the real character of a transaction must prevail over its formal presentation. When applied to digital donations, this doctrine supports the proposition that contributions routed through KYC-compliant banking systems—even if unaccompanied by a manually recorded name or address—should not be deemed “anonymous” where no element of sham or fictitious conduct exists.

- 14.02** The Hon'ble Supreme Court in *Vodafone International Holdings B.V. v. Union of India* [2012] 17 taxmann.com 202/204 Taxman 408/341 ITR 1 (SC) stressed the importance of looking at transactions holistically rather than dissecting them into artificial segments. Similarly, in *Mc Dowell & Co. v. CTO* [1985] 22 Taxman 11/154 ITR 148 (SC), the Court held that tax planning must be legitimate and transparent, but not colourable or evasive. Even internationally, tax jurisprudence, such as in the UK GAAR or US substance-over-form doctrines, reiterates that the real intention and effect of a transaction must guide regulatory treatment.
- 14.03** When a donation passes through regulated, auditable, and legally traceable banking infrastructure, invoking penal provisions like Section 115BBC purely on procedural lapses undermines the commercial and legal substance of the transaction.
- 14.04** It is therefore imperative that Section 115BBC be interpreted in light of these foundational doctrines, ensuring that the application of tax law adheres to principles of fairness, commercial reality, and proportionality. Regulatory authorities must distinguish wilful concealment from practical non-recording, and procedural form must yield to substantive compliance where the transaction is otherwise transparent, lawful, and audit-friendly.

CONCLUSION

- 15.01** In conclusion, the issue of anonymous donations in a digitally enabled society requires a nuanced, layered, and technologically informed legal framework.
- 15.02** The receipt of donations through QR codes or other digital banking channels is neither barred under any law nor inherently suspicious. In fact, even commercial transactions today are routinely conducted via UPI without requiring the disclosure of the payer's name and address. Such transactions are not considered sham merely because the recipient does not manually record identity particulars.
- 15.03** In the case of charitable institutions where donations are received through fully traceable, KYC-compliant banking systems, the absence of a name and address in

the recipient's records alone should not render the donation "anonymous" under Section 115BBC. Unless the law specifically empowers recipient institutions to demand, extract, or access such identity details or obliges the financial intermediary to provide them, it is neither reasonable nor cost-effective to expect compliance beyond operational capacity. The legal identity of the donor exists and is verifiable; what is absent is only the physical transfer of that data to the NGO. In such cases, the donation ought not to be classified as anonymous either in substance or spirit.

- 15.04** Given the existence of a complete financial trail within KYC-compliant banking systems, any concerns about donor identity can be addressed directly by the Assessing Officer through authorised channels. Therefore, in the absence of a statutory mandate compelling NGOs to obtain such data, and considering the traceability already embedded in the banking infrastructure, such donations should not be treated as anonymous merely for want of manual donor records.
- 15.05** While the mischief sought to be addressed in 2006 was real and remains relevant, the mechanism to address it must evolve with the tools and practices of 2025. Regulatory integrity should not come at the cost of undermining digital transparency or overburdening genuine charitable entities.
- 15.06** It is imperative that lawmakers revisit Section 115BBC, not to weaken its spirit, but to ensure that its enforcement mechanism aligns with both technological advancements and the principle of proportional compliance.

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