

LOAN FROM DOMESTIC SOURCES

Issues involved in availing Domestic Loans

In an ongoing project, at times, if the receipt of foreign fund is delayed then an organisation may have to borrow from local sources to continue the project. It is understandable for an organisation to face such circumstances and there is no specific bar against such transaction under FCRA. But in this context the following may be noted:

- i) If funds from local sources are used for FC projects then they have to be reflected in the FC books of account. Separate books of account for FC purposes do not imply that there cannot be any transactions from the domestic sources.
- ii) A loan from domestic sources is not a receipt from foreign source. Therefore, it should not be received in the designated bank account. The expenditure can be directly made from the domestic bank account and booked as expenditure in the FC books of account. A corresponding liability should also be shown in the FC books of account.
- iii) When the funds are received from foreign sources the liability can be repaid to the domestic books of account.
- iv) The issue arising here is whether such loan taken from domestic funds should be reflected in FC-3 return. In this context, we have to understand that FC-3 return wants us to submit only the analysis of receipt and utilisation of foreign contribution. Any loan from domestic sources is apparently not a foreign contribution. Therefore, it should not be reflected in Form FC-3.

Illustration

For example, an organisation receives 1,00,000.00 in the year 2001-02 from foreign sources. It spends Rs.1,50,000.00 on FC projects. It borrows Rs.50,000.00 from domestic sources. In the year 2002-03, it receives Rs. 1,00,000.00 from foreign sources. It spends Rs. 50,000.00 on FC projects and repays Rs. 50,000.00 to domestic account.

In the above case, in the year 2001-02, the organisation's FC books of account should show Rs. 1,50,000.00 as application of funds. Rs. 50,000.00 should be shown as liability in the FC Balance Sheet. But, in the FC-3 statement, only Rs. 1,00,000.00 should be shown as foreign receipts and application to the extent of Rs. 1,00,000.00 only. Because Form FC-3 requires a summary of the FC receipts and utilisation of those receipts. Rs. 50,000.00 may have been utilised for a FC project but it is not an utilisation of FC receipts.

In the year 2002-03, Rs.1,00,000.00 should be shown as foreign receipts and Rs.50,000.00 should be repaid to the domestic books of account and remaining Rs. 50,000.00 should be shown as utilisation. In FC-3 return, Rs. 1,00,000.00 should be shown as utilisation.

The above illustration may raise some confusion regarding non-reflection of Rs. 50,000.00 as utilisation in the FC-3 return, in the year 2001-02. Here we have to understand that FC-3 is not a statement to be prepared on accounting principles rather it is a statement declaring certain specific facts as per the requirement of FCRA. The requirement is specifically to mention inflow and utilisation of foreign funds in a particular year. Therefore, the expenditure of Rs. 50,000.00 from domestic sources should not be considered for FC-3 purposes till the foreign funds are received against it. Suppose, the organisation does not receive any foreign funds in future then

such reflection would not be correct. Therefore, any expenditure on expectation of a future receipt cannot be considered as an application of foreign funds because it is a contingent upon a future event.

The other issue pertinent is repayment of Rs. 50,000.00 in the year 2002-03 being shown as utilisation in 2002-03 for FC-3 purposes. Though, the actual expenditure was incurred in the year 2001-02. In this context, it may be noted that, firstly, for FCRA purposes, the foreign funds were received and utilized in the year 2002-03. Till the receipt of foreign funds, utilisation was made from domestic sources, therefore, not within the purview of FCRA. Secondly, for the purposes of understanding the legal sanctity of such transactions. Because, under the prevailing laws repayment of loan for earlier year expenditures are considered as valid utilisation in the current year. Finally, we should always remember that Form FC-3 is prepared for reporting purposes on the specific and statutory requirement of FCRA.

A loan from domestic sources is not a FC receipt, therefore, it should not be shown in the FC receipt and payment account also. The loan should be directly shown as a liability in the balance sheet and the FC income and expenditure account should show excess of expenditure over income to that extent. To sum up, a loan from domestic source will not be reflected in the FC-3 as well as FC receipt and payment account and the procedure as discussed above should be followed.

Overall Summary

To sum up the discussions :

- (i) An organisation may use funds from domestic sources for FC projects.
- (ii) A loan from domestic sources is not a receipt from foreign source. Therefore, it should not be received in the designated bank account. The expenditure can be directly made from the domestic bank account and booked as expenditure in the FC books of account. A corresponding liability should also be shown in the FC books of account.
- (iii) When the funds are received from foreign sources the liability can be repaid to the domestic books of account.
- (iv) Any loan from domestic sources is apparently not a foreign contribution. Therefore, it should not be reflected in Form FC-3 and FC receipt and payment account.