

F.No.II/21022/58(0047)/2013-FCRA(MU)
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
FOREIGNERS DIVISION (FCRA Wing)

NDCC – II Building, (Opposite Jantar Mantar)
Jai Singh Road, Connaught Place,
New Delhi – 110 011
Dated : 09 April, 2015

**Show cause notice under Section 14 of Foreign Contribution
(Regulation) Act, 2010.**

Whereas, the association, **Greenpeace India Society, New No.47(old No.22), 2nd cross Street, Ellai Amman Colony, Gopalapuram, Chennai-600086, Tamil Nadu** is registered under the Foreign Contribution (Regulation) Act, 2010 vide Registration No. 075901052R;

Whereas, an on-site inspection of records and accounts of the association was conducted from 24th to 27th September, 2014;

Whereas, the copy of the Inspection Report was served on the association vide letter of even number dated 28th November, 2014 inviting comments of Greenpeace India Society on the observations contained in the report;

Whereas, Greenpeace India Society submitted its comments on the Inspection Report vide its letter dated 20th December, 2014;

Whereas the reply of Greenpeace India Society was examined by the Government and it is found that the association:

Has first transferred Foreign Contribution received in the FCRA designated bank account to the FCRA utilization account and from there to five other undeclared utilisation bank accounts as mentioned below without informing authority concerned in violation of Rule 9(1)(e) of Foreign Contribution(Regulation) Rules, 2011 ;

S. No.	Account No.	Credited from A/c	Debit to A/c No
1.	005103000000888 (IDBI Bank), FCRA designated Bank Account	Foreign Donors like Greenpeace International, Greenpeace Netherlands, Climate Works Foundation	005103000004169, 002284100000616, 0022840000002052
2.	0022840000002052 Yes Bank FCRA utilization Bank Account	005103000000888 (Foreign Contribution account)	005103000004169 002284100000616 015694600000011

1.	005103000004169 (IDBI Bank, Chennai)	005103000000888 (Foreign Contribution account) 002284100000616, 0022840000002052	002284100000616, 002283800005431, 015694600000011, 005103000000408 (Greenpeace Environment Trust)
2.	002284100000616 (Yes Bank)	005103000000888 (Foreign Contribution account) 005103000004169 0022840000002052 002283800005431	005103000004169. 625401068671
3.	002283800005431 (Yes Bank)	005103000004169	002284100000616 015694600000011
4.	015694600000011 (Yes Bank)	005103000004169, 0022840000002052 002283800005431 625401068671 (ICICI Bank)	625401068671 (ICICI Bank)
5.	625401068671 (ICICI Bank)	015694600000011 (Yes Bank)	015694600000011 (Yes Bank)

As per the provisions of Section 17(1) of the Act, foreign contribution will be received in a single account only through such one of the branches of a bank as specified in the application for grant of certificate and no funds other than foreign contribution shall be received or deposited in such account. The Act provides for opening of one or more accounts in one or more banks for utilization of the foreign contribution received and in all such cases, as per Rules 9(1)(e) of FC(R) Rules, 2011 intimation on plain paper shall have to be furnished to Ministry of Home Affairs within 15 days of the opening of the account;

Whereas, it has also been found that multiple transfers were made to multiple other accounts including inter account transfers from the utilization account without any intimation or permission of Ministry of Home Affairs, which is a violation of Section 17(1) of FCRA, 2010 read with Rule 9(1)(e) of FC(R) Rules, 2011;

Whereas the association has under-reported and repeatedly mentioned incorrect amount of Foreign contribution received, as mentioned below, in violation of Section 33 of FCRA, 2010, the most glaring example being Foreign Contribution opening balance for 2008-09, which was reported as Nil in the auditor's certificate but was actually Rs. 6,60,31,783/-. Greenpeace India Society subsequently admitted the same and claimed it to be a typographical error, which is not tenable. Some other violations are:

FY	Previous Balance (INR)	Receipt of FC (INR)	Utilized (INR)	Balance (INR)	Remarks
2007 - 2008	7,77,57,908	2,08,96,661 51,31,704 (interest)	3,77,36,490	6,60,31,783	The certificate given by the Chartered Accounts M/s R.K. Kumar & Co has furnished the receipt of 'Foreign Contribution' as Rs.20,89,661/- which is not correct. It should have been 2,60,28,365/-. The association has shown

					Interest in FC-3 Statement as Rs.51,31,704/-, whereas, it has been shown in Receipt & Payment account as Rs.51,13,704/- leaving behind a difference of Rs.18,000/-.
2008 - 2009	6,60,31,783	3,00,59,377 37,98,937 (Interest)	5,69,93,513	4,28,96,584	The certificate given by the Chartered Accountants M/s R.K. Kumar & Co reflects the opening balance as 'Nil' and Receipt of 'Foreign Contribution' is Rs.3,00,59,377, which is not correct. As per FC-6 return, the receipt of Foreign Contribution is Rs.3,00,59,377/-, whereas, the Receipt & Payment Accounts shows that the association has received Rs.2,97,06,047/- leaving behind a different of Rs.3,53,330/-.
2009 - 2010	4,28,96,584	6,70,10,297 26,23,043 (interest)	8,70,63,873	2,54,66,051	The certificate given by the Chartered Accounts M/s R.K.Kumar & Co reflects the opening balance as 'Nil' which is not correct. As per the FC-6 Returns, the association has received Rs.6,70,10,297- but, as per Receipt & Payment Accounts, the association has Rs.6,59,58,502/- leaving a difference of Rs.1,05,1795/-.
2010 - 2011	2,54,66,051	5,52,19,703 6,45,966 (interest)	7,70,69,833	42,61,887	The certificate given by the Chartered Accounts M/s R.K.Kumar & Co reflects the opening balance as 'Nil' which is not correct. The association has mentioned as Foreign Contribution received in FC-6 return as Rs.5,52,19,703/-, whereas, they have mentioned in Receipt & Payment Accounts as Foreign Contribution received Rs.5,45,39,253/-, which leaves a difference of Rs.6,80,450/-.
2011 - 2012	42,61,887	6,74,22,334 10,47,191 (interest)	6,97,23,208	30,08,204	The certificate given by the Chartered Accounts M/s R.K.Kumar & Co reflects the opening balance as 'Nil' which is not correct. The Receipt & Payment Accounts shows the receipt of Foreign Contribution of Rs.6,72,54,834/- (excluding interest). Whereas, it has been shown in FC-6 Return as Rs. 6,74,22,334/- There is a difference of Rs.1,67,500/- in the figure mentioned in the Receipt & Payment account and FC-6 Statements.

Whereas the association has incurred more than 50% of the Foreign Contribution on administrative expenditure during financial year 2011-12 and 2012-13 without obtaining the prior approval of the Central Government in violation of Section 8(1)(b) of FCRA, 2010, which is also substantiated by the notice/orders issued by the Income Tax Department and subsequent payment of Rs. 62.12 lakh by the Greenpeace India Society to the Income Tax Department.

S.No.	Financial Year	Foreign Contribution Received (Rs)	Administrative Expenditure (Rs)
1	2011-12	6,84,69,525	6,07,43,232
2	2012-13	10,14,72,417	8,22,43,335

Section 8(1)(b) of FCRA, 2010 stipulates that administrative expenses shall not exceed 50% of the foreign contribution received in a financial year and any expenditure of administrative nature in excess of 50% shall be defrayed only after prior approval of the Central Government.

Whereas the association has funded legal costs, not only for seeking bail, but also for filing writ petitions of an associated Indian NGO and activists of the association, some of which were: Greenpeace India Society incurred an expenditure of Rs. 25,000/- in Financial Year 2008-09 and Rs. 55,000/- in Financial Year 2009-10 for securing bail bonds and payment of legal fee without any previous consent of the donor, in contravention of Section 8 (1)(a) of FCRA, 2010, which envisages that Foreign Contribution should be utilised only for the purpose for which it has been received. Moreover, this activity does not fall within the ambit of the aims and objectives of the association;

Whereas the association has admitted before the Income Tax Department and as proved through the bank account scrutiny during inspection that in the financial year 2010-11, Greenpeace India Society paid Rs. 8,05,027/- to the employees of Greenpeace Environment Trust (GET), which is a separate Trust with a different PAN number in violation of Section 7 of the FCRA, which prohibits transfer of Foreign Contribution from an FCRA registered NGO to a non-FCRA registered NGO without the prior approval of the Central Government. It has been found that Greenpeace Environment Trust account No.005103000000408 in IDBI Bank received Rs.47,80,147/- from Greenpeace India Society Bank account No. 0051030000004169 from 3rd January, 2013 to 5th November, 2013 in violation of Section 7 of FCRA 2010;

Whereas the association has willfully suppressed and not disclosed the payment of salary @Euro 56,951.16 per annum by Greenpeace International to Greg Muttitt, a foreign Greenpeace activist, who worked on secondment with Greenpeace India Society in India for 5 ½ months from 15th September 2013 to 28 February 2014. He was an important part of Greenpeace India Society strategy-making and implementation, monitoring of Greenpeace India Society fund distribution and guiding the planning of protests. He was paid directly by and his contract signed by Greenpeace

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International in violation of Section 33 of FCRA, 2010 by not reporting the details thereof in the returns filed to the Government;

Whereas it has also been found that the association has shifted its functioning and activities from the registered address, New No.47 (Old No.22), 2nd Cross Street, Ellai Amman Colony, Chennai – 600 086 (Tamilnadu) to an unreported address at 60, Wellington Street, Richmond Town, Bengaluru-560 025 (Karnataka) without approval/intimation of this Ministry, in violation of the Undertaking & Declaration given by the association in its application for registration under Rule 9(1)(a) of Foreign Contribution (Regulation) Rules, 2011.

The registered office of the society as per the FCRA database is New No.47 (Old No.22), 2nd Cross Street, Ellai Amman Colony, Chennai – 600 086 (Tamilnadu). But, this office is for name sake only and is used for storing old records. All its activities are being carried out from 60, Wellington Street, Richmond Town, Bengaluru-560 025 (Karnataka). The Annual Report of the society for 2013 shows this Bengaluru address and does not show its registered Chennai office address. All the vouchers and correspondence of the society also show its Bengaluru address. At the time of inspection, website of the association, www.greenpeace.org.in, also did not show the address of its registered Chennai office. This in effect means that for all practical purposes Greenpeace India Society is functioning from its Bengaluru office. However, no intimation for the same has been furnished to this Ministry. Hence, this non-intimation of an important change is a violation of the Declaration and Undertaking given by the association at the time of seeking registration under FCRA;

Whereas the association has also replaced 50% or more of the executive committee members without obtaining prior approval of the Central Government which is a violation of the undertaking & declaration given by the association in its application for registration under Rule 9(1)(a) of Foreign Contribution (Regulation) Rules, 2011;

The Undertaking given and Declaration made by Greenpeace India Society in its application for registration under FCRA, that at any point of time any such change that causes the replacement of 50% or more of such Members of the Executive Committee/Governing Council of the association, intimation would be given to Ministry of Home Affairs within thirty days of such change in accordance with the Undertaking & Declaration given by the association in its application for registration or prior permission, as the case may be. Further, as per the Undertaking & Declaration, the association should not accept any foreign contribution except with prior permission till the permission to replace the office bearer(s) has been granted by Ministry of Home Affairs, which is in violation of the Undertaking & Declaration given by the association in its application for registration under Rule 9(1)(a) of Foreign Contribution(Regulation) Rules, 2011;

And whereas, the Central Government having regard to the information and evidence in its possession is satisfied that the acceptance of foreign contribution by the said Association, **Greenpeace India Society, New No.47 (old No.22), 2nd cross**

Street, Ellai Amman Colony, Gopalapuram, Chennai-600086, Tamil Nadu, has prejudicially affected the public interest, in violation of Section 12(4)(f)(iii) and has prejudicially affected the economic interest of the State in violation of Section 12(4)(f)(ii) of FCRA, 2010, which violates conditions of grant of Certificate of registration;

Now therefore, in exercise of the power conferred by Section 14 of the Foreign Contribution (Regulation) Act, 2010, the Central Government hereby directs the Greenpeace India Society, New No.47(old No.22), 2nd cross Street, Ellai Amman Colony, Gopalapuram, Chennai-600086, Tamil Nadu to show cause within thirty days of its receipt of this notice as to why its FCRA registration should not be cancelled.


9/4/15
(G.K. Dwivedi)

Joint Secretary to the Government of India
Tel No.011 23438034

To

The Chief Functionary
Greenpeace India Society,
New No.47(old No.22), 2nd Cross Street,
Ellai Amman Colony, Gopalapuram,
Chennai-600086, Tamil Nadu