

Is HINDI a 'Vernacular Language'?

Query - Income-tax Department is requiring translation of original documents available in 'vernacular language' into English language, in the process of seeking for registration of 12AB and approval of 80G & 10(23C).

Now question arises, whether original documents available in Hindi language are to be considered as 'documents in vernacular language' or not? And whether translation of the same into English language is necessary?

FACTS -

A lot of confusion was created with respect to non-submission of English translation of documents, which are in Hindi with reference to the new process of registration of 12AB and approval of 80G & 10(23C). Whether Department will treat Hindi as vernacular language and whether submission of documents in Hindi language, may invoke rejection of application or lead to delays in granting registration/approval?

The above question was also asked from us, during virtual CPE meeting (VCM) on the topic "Charitable Institutions – Amendments and Re-Registration Process", organized by Jaipur Branch of CIRC of ICAI on 01.05.2021.

Although, we were quite clear and also responded to the query accordingly during the VCM that this requirement of translation would not apply to Hindi language. When we were asked for the basis of the same, we were not able to respond spontaneously.

And, apart from that, recently the Department had asked for English translations of Hindi Documents during Scrutiny proceeding, in some cases. This also increased our confusion, with respect to the reply given during VCM.

In country like India, it should not be expected from an individual to convert the documents from Hindi language to English language. It seems impractical and also unjustified. This arrangement, in fact, should be ensured by the Department itself, through "RAJ BHASHA VIBHAG – Department of Official Language".

Through the following analysis, we tried to create an unbiased opinion with a view to understand that whether Hindi language is a 'vernacular language' or not:

ANALYSIS

1. Dictionary Definitions of 'Vernacular':

- 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.”**

- 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 A – ‘Vernacular Language’ shall be a nonstandard language.

2. Constitution of India:

2.1. Recognition by Union

- **Article 343** of the Constitution of India says that the **official language of the Union shall be Hindi in Devanagari script.**
- **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.
- 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

- **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.
- **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 B- It shows that usage of Hindi in official communications has been promoted in the Constitution of India itself.

3. Official Language Act, 1963 (*Extends to Whole of India except Tamil Nadu*)

- **Section 3(1)** provides that English shall continued to be used **in addition to Hindi** even after 15 years of commencement of Constitution.

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

4. Official Languages Rules, 1976 provides

- **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 D- 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.

OPINION

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 A**. It cannot be called a vernacular language.
2. Apart from above, taking into consideration **Findings B, C and D**, we opine that Hindi language should not be a vernacular language as 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 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, Bengali, Malayam etc, which are used by the particular community, region, class of person should be categorized as vernacular language.
4. The requirement at Income-tax portal mentions translation of 'original documents in vernacular language' into English, while filing Form No. 10A w.r.t new process of Re-registration.

The words – 'original documents' does not preclude documents issued by Department which also form part of submissions. And, the fact, which should be noticed is that, many of the orders u/s 12AA and approvals u/s 80G, 10(23C), were issued by Department in Hindi, in past.

It thus raises the question that whether approval order and registration certificates 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 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 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, 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 Department.

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