

**DID YOU KNOW ABOUT  
THE LEGAL RESTRICTIONS  
BEHIND WORKS OF THE  
“NAVRATNAS”?**



## SUMMARY

- *The main Statute governing different facets of antiquities and art treasures in India for nearly fifty years is the Antiquities and Art Treasures Act, 1972 (the “Antiquity and Art Treasures Act”). It aims to provide for the protection and preservation of antiquities and art treasures. The definition of an “antiquity” is wide and inclusive. It includes coins, sculptures, paintings and works of art and craftsmanship that are not less than one hundred years old. The Statute makes no distinction between antiquities that are Indian and those that are foreign.*

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**An “art treasure”** has been defined in the same Antiquity and Art Treasures Act as any human work of art, which is not an antiquity and has been declared by the Central Government to be an art treasure. Significantly, no work of art can be declared as an art treasure during the lifetime of the creator.

The law does not prohibit dealing in antiquities or art treasures; it seeks to regulate the trade in such objects rather than impose a total prohibition on such activity. A person engaged in selling antiquities must obtain a license for the purpose. The Rules lay down the way a license for the sale of antiquities can be issued and the conditions to be imposed on the licensee subject to which the license can be issued.

The Government is empowered to specify specific antiquities that must be registered with a designated authority. The movement of registered antiquities from one person to another must be made known to the registering officer. This only points to the fact that there is no prohibition on trading in such works of art. It is interesting to note that the Antiquity and Art Treasures Act does not impose any limitations and restrictions on

the sale of art treasures within the country. Only the export of art treasures is regulated by the Act.

The Central Government by a Notification GSR No. 904(E) dated 1 December 1976 declared the *Paintings (including drawing, sketches, diagrams and the like) and objects of art by Rabindranath Tagore, Amrita Sher Gill, Jamini Roy and Nandalal Bose* to be art treasures under the Antiquity and Art Treasures Act.

On 10 August 1979 the Central Government by a Notification GSR 477(E) declared the *Paintings (including drawing, sketches, diagrams and the like) and objects of art by Ravi Verma, Gaganendra Nath Tagore, Abanindra Nath Tagore, Sailoz Mookerjee and N. Roerich* to be art treasures under the Antiquity and Art Treasures Act.

The works of these nine artists have been declared as art treasures by the Central Government and their export is regulated under the Antiquities and Art Treasures Act. A specific permit from the Director General, Archaeological Survey of India is necessary before any export of Paintings of these nine artists who are described as “Navratnas”, which means the “nine jewels”.





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The effect of these two Notifications with respect to the works of the named artists is that their works cannot be taken outside India without the express permission of the Central Government and if the Central Government feels that their works need to be preserved in a public place, then the Central Government can compulsorily acquire their works.

### Estate Planning for Collections

#### 1. Who needs an estate plan?

**A1.** Planning is essential to ensure that artwork is distributed in accordance with the Collector's intent. An estate plan allows a Collector to direct when, how and whom the artwork will be distributed.

#### 2. Who will be the beneficiaries?

**A2.** In the context of artwork, beneficiaries can include (i) children and other family members of the descendants; (ii) trust, LLC (or such other entities); (iii) charitable institutions, museums, collector's own foundation, depending on your goal, to manage the artwork. Each type of entity will require a different advance conversation. If charitable beneficiaries are involved such as museums, it is essential to discuss the artwork and cash with the museum in advance, to determine under what circumstances the museums will accept the work. Museums will be more willing to accept donations if funds are provided for maintaining the artwork. Tax planning with an aim to maximise your tax deductions would be the goal here.

#### 3. What are the basic estate planning requirements, processes, and documents?

**A3.** An initial estate plan document will include gathering information to understand the size of the estate, the potential tax, identifying roles and responsibilities (executor, agent, trustee, successor trustee). For a Collector it may be advisable to name an artwork executor, or a trustee or otherwise provide for the artwork in a specific manner. It is important that the document covers all details in relation to the management, and protection of the work. Based on the structure, stamp duty will be payable. Primarily, one can consider a (i) Will, (ii) Trust, (iii) LLP, (iv) LLC, (v) Offshore Fund. ■

