

आयकर अपीलिय अधीकरण, न्यायपीठ – “B” कोलकाता,  
*IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA BENCH “B” KOLKATA*

Before **Shri S.S.Godara, Judicial Member** and  
**Shri, M. Balaganesh, Accountant Member**

**ITA No.2455/Kol/2017**

Sri Sri Sitaramji Bhawan (Estate), P-7, Chowringhee Square, Swastik Centre, 1 <sup>st</sup> Floor, Kolkata-69 <b>[PAN No.AARTS 1623 A]</b>	<b>V/s.</b>	Commissioner of Income Tax (E), 10B, Middleton Row, 6 <sup>th</sup> Floor, Kolkata-700071
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

अपीलार्थी की ओर से/By Appellant	Shri V.N. Purohit, FCA
प्रत्यर्थी की ओर से/By Respondent	Shri S. Dasgupta, Addl. CIT-DR
सुनवाई की तारीख/Date of Hearing	23-07-2018
घोषणा की तारीख/Date of Pronouncement	31-07-2018

**आदेश /ORDER**

**PER S.S.Godara, Judicial Member:-**

This assessee's appeal arises against Commissioner of Income Tax (Exemptions), Kolkata's order dated 17.10.2017 involving proceedings 12AA of the Income Tax Act, 1961; in short 'the Act'.

Heard both the parties. Case file perused.

2. This assessee came into existence as a trust on 21.08.1966 vide its corresponding trust deed. It sought for section 12AA registration vide application submitted Form 10A dated 19.04.2017. This followed that the relevant enquiries at the CIT(E)'s end. The assessee filed all details of its donation received which were treated as corpus donation, balance-sheet along with income and expenditure account as well as the other documents sought therein. Learned CIT(E) lastly concluded in his order under challenge

that the assessee had agreed for withdrawing its registration application on account of non compliance of the earlier directions seeking to treat its activities to be non genuine. He has therefore rejected assessee's registration application in *limine* as withdrawn. This leaves the assessee agreed.

3. We have given our thoughtful consideration to rival contentions. The assessee's president / secretary's affidavit dated 17.05.2018 solemnly avers therein that its authorized representative had never withdrawn the requisite registration application filed before CIT(E). This affidavit rather pleads that the authorized representative had in fact not put its appearance before CIT(E) during the course of hearing on 04.10.2017. Nor is any such withdrawal concession filed at the taxpayer's behest is forthcoming from records. These clinching facts have gone unrebutted from the Revenue side. We therefore deem it appropriate in larger interest of justice that the assessee deserves one more innings before CIT(E) for afresh adjudication of its registration application on merit as per law after adequate opportunity of hearing. We order accordingly.

4. This assessee's appeal is accepted for statistical purpose.

Order pronounced in the open court 31/07/2018

Sd/-

(लेखा सदस्य)

(M.Balaganesh)

(Accountant Member)

Kolkata,

\*Dkp, Sr.P.S

दिनांक:- 31/07/2018 कोलकाता ।

**आदेश की प्रतिलिपि अद्योषित / Copy of Order Forwarded to:-**

1. अपीलार्थी/Appellant-Sri Sri Sitaramji Bhawan (Estate), P-8, Chowringhee Square, Swastik Centre, 1<sup>st</sup> Floor, Kolkata-69
2. प्रत्यर्थी/Respondent-CIT(E), 10B, Middleton Row, 6<sup>th</sup> Floor, Kolkata-71
3. संबंधित आयकर आयुक्त / Concerned CIT Kolkata
4. आयकर आयुक्त- अपील / CIT (A) Kolkata
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

Sd/-

(न्यायिक सदस्य)

(S.S.Godara)

(Judicial Member)

/True Copy/

By order/आदेश से,

Sr. Private Secretary, Head of Office/DDO  
आयकर अपीलीय अधिकरण, कोलकाता ।