

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA 'A(SMC)' BENCH, KOLKATA**

Before Shri Satbeer Singh Godara, Judicial Member

**I.T.A. No. 1644/KOL/2019
Assessment Year: 2011-2012**

Rajiv Kumar Ganeriwala,.....Appellant
16B, Rowland Road, Kolkata-700020
[PAN:AHLPG6209K]

-Vs.-

Income Tax Officer,.....Respondent
Ward-31(4), Kolkata,
10B, Middleton Row, Kolkata-700071

Appearances by:

Shri Anil Kochar, Advocate, for the Appellant
Smt. Ranu Biswas, CIT, Sr. D.R., for the Respondent

Date of concluding the hearing : January 27, 2020

Date of pronouncing the order : January 31, 2020

O R D E R

The assessee's appeal for assessment year 2011-12, arises against the ld. Commissioner of Income Tax (Appeals)-09, Kolkata's order dated 23.05.2019 passed in the case No. 440/CIT(A)-9/Wd-31(4)/2014-15/Kol, involving proceedings under section 250 of the Income Tax Act, 1961; in short 'the Act'.

Heard both the parties. Case file perused.

2. The assessee's sole substantive ground challenges correctness of both the lower authorities action disallowing section 35(1)(ii) deduction amounting to Rs.22,75,000/- at the rate 175% of the donation of Rs.13,00,000/-.

3. Mr. Kochar sought to emphasize on the ld. CIT(Appeals) findings at pages 2 to 6 that hon'ble jurisdictional high court's decision in the case of Society for Welfare of the Handicapped Persons & Another -vs.- Union of

India Writ Petition No. 8452 (W) of 2015 has directed to carry out the necessary investigation pertaining to the donee's KYC norms. His case therefore is that the above sole issue deserves to be restored back to the file of the Assessing Officer to proceed afresh after final outcome of the said investigation process. The Revenue is equally fair in not disputing all these averments. I, therefore, restore the assessee's sole grievance under section 35(1)(ii) to the file of the Assessing Officer for fresh adjudication as per law in the above terms.

4. In the result, the appeal of the assessee is allowed for statistical purposes in above terms.

Order pronounced in the open Court on January 31, 2020.

Sd/-
(Satbeer Singh Godara)
Judicial Member

Kolkata, the 31st day of January, 2020

- Copies to :*
- (1) **Shri Rajiv Kumar Ganeriwala,**
16B, Rowland Road, Kolkata-700020
 - (2) **Income Tax Officer,**
Ward-31(4), Kolkata,
10B, Middleton Row, Kolkata-700071
 - (3) *Commissioner of Income Tax (Appeals) -9, Kolkata;*
 - (4) *Commissioner of Income Tax- , Kolkata*
 - (5) *The Departmental Representative*
 - (6) *Guard File*

By order

Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata

Laha/Sr. P.S.