

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'SMC' BENCH, KOLKATA
(Before Sri J. Sudhakar Reddy, Hon'ble Accountant Member)
[VIRTUAL COURT HEARING]**

ITA No. 927/Kol/2019
Assessment Years: 2013-14

M/s. Sahara Utsrga Welfare Society.....Appellant
Michael Nagar
Kalibari Sarani
Kolkata - 700 133
[PAN : AADTS 6744 E]

Vs.

Deputy Commissioner of Income Tax (E), Circle-1, Kolkata.....Respondent

Appearances by:

Shri A.K. Tulsian, FCA appeared on behalf of the assessee.

Shri Jayanta Khanra, JCIT, D/R, appearing on behalf of the Revenue.

Date of concluding the hearing : July 13th, 2020

Date of pronouncing the order : July 13th, 2020

ORDER

Per J. Sudhakar Reddy, AM :-

This appeal filed by the assessee is directed against the order of the Learned Commissioner of Income Tax (Appeals) – 12, Kolkata, (hereinafter the “ld.CIT(A)”), passed u/s. 250 of the Income Tax Act, 1961 (the ‘Act’), dt. 12/06/2019 for the Assessment Year 2013-14.

2. After hearing rival contentions, I find that the sole issue is whether the assessee is entitled to accumulation of 15% on the gross receipts and whereas the Assessing Officer held that the assessee is entitled to 15% of the net receipt.

3. The Hon’ble Supreme Court of India in the case of *CIT vs. Programme for Community Organisation* reported in [2001] 248 ITR 0001 (SC) has held as follows:-

“Charitable trust- Accumulation of income- Charitable trust is entitled to accumulate 25 per cent of its income derived from property held under trust and not 25 per cent of the income remaining after application of income for charitable purposes – therefore, assessee-trust was entitled to accumulate 25 per cent of donations received by it and not merely 25 per cent of unspent balance.”

The ‘B’ Bench of the ITAT in the assessee’s own case in *ITA No. 2436/Kol/2018*, order dt. 22/01/2020, for the Assessment Year 2012-13, on the same issue held as follows:-

“.....We note that in the provisions of section 11(1) it has been clearly mentioned “... 15% of the income”, hence it is gross income of the assessee trust and not the net income. Therefore, based on

this factual position as mentioned in Section 11(1) as noted above, we direct the Assessing Officer to allow 15% exemption on gross receipts.

4. Respectfully following the same, we hold that the assessee is entitled to the accumulation of 15% on the gross receipt as per provisions of Section 11 of the Act.
5. In the result, appeal of the assessee is allowed.

Kolkata, the 13th day of July, 2020.

Sd/-
[J. Sudhakar Reddy]
Accountant Member

Dated : 13.07.2020
{SC SPS}

Copy of the order forwarded to:

1. M/s. Sahara Utsrga Welfare Society
Michael Nagar
Kalibari Sarani
Kolkata – 700 133

2. Deputy Commissioner of Income Tax (E), Circle-1, Kolkata

3. CIT(A)-
4. CIT- ,
5. CIT(DR), Kolkata Benches, Kolkata.

True copy
By order

Assistant Registrar
ITAT, Kolkata Benches