

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'C' BENCH, KOLKATA**

**(Before Sri J. Sudhakar Reddy, Hon'ble Accountant Member & Sri Aby T. Varkey, Hon'ble Judicial Member)  
[VIRTUAL COURT HEARING]**

**ITA No. 1870/Kol/2019  
Assessment Years: 2014-15**

**Eastern Zonal Cultural Centre.....Appellant**  
**IA-290, 'AIKATAN'**  
**Sec-III**  
**Salt lake**  
**Kolkata - 700 097**  
**[PAN : AAAAE 7190 E]**

**Vs.**

**Income Tax Officer, Ward-1(2), Exemption, Kolkata..... Respondent**

**Appearances by:**

*Shri Gautam Banerjee, FCA, appeared on behalf of the assessee.*

*Shri Supriyo Pal, JCIT D/R, appearing on behalf of the Revenue.*

Date of concluding the hearing : July 20<sup>th</sup>, 2020

Date of pronouncing the order : July 24<sup>th</sup>, 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) – 25, Kolkata, (hereinafter the “Id.CIT(A)”), passed u/s. 250 of the Income Tax Act, 1961 (the ‘Act’), dt. 10/05/2019 for the Assessment Year 2014-15.

2. At the outset we find that there is a delay of 09 (nine) days in filing of this appeal by the assessee. After perusing the petition for condonation, we are convinced that the assessee was prevented by sufficient cause from filing the appeal in time. Hence the delay is condoned and the appeal is admitted.

3. After hearing rival contentions we find that the issue is covered in favour of the assessee and against the revenue by the decision of the ‘SMC’ Bench of the Tribunal in the case of *M/s. Sahara Utsrga Welfare Society vs. DCIT in ITA No. 927/Kol/2019*, order dt. July 13<sup>th</sup>, 2020, while deciding the identical issue held as follows:-

“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.*

4. Consistent with the view taken therein, we hold that, the set apart amount u/s. 11(1) of the Act, should be calculated on gross revenue income and not on net income after expenses.

5. In the result, appeal of the assessee is allowed.

***Kolkata, the 24<sup>th</sup> day of July, 2020.***

***Sd/-***  
**[Aby T. Varkey]**  
 Judicial Member

***Sd/-***  
**[J. Sudhakar Reddy]**  
 Accountant Member

Dated : 24.07.2020  
 {SC SPS}

*Copy of the order forwarded to:*

1. ***Eastern Zonal Cultural Centre***  
***IA-290, 'AIKATAN'***  
***Sec-III***  
***Salt lake***  
***Kolkata - 700 097***

2. ***Income Tax Officer, Ward-1(2), Exemption, Kolkata***

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

True copy  
 By order

Assistant Registrar  
 ITAT, Kolkata Benches

