

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G": NEW DELHI**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER**

**ITA No. 6748/DEL/2017
Asstt.Yr: 2017-18**

Software Technology Parks of India,
Electronics Niketan, 6 CGO Complex,
Lodhi Road, New Delhi-110003.
9th Floor, NDCC-II, Jai Singh Marg,
New Delhi-110001.

Vs Commissioner of
Income Tax
(Exemption), Delhi.

PAN- AAATS2468J

APPELLANT

RESPONDENT

**Assessee represented by
Department represented by**

**Sh. AtulNinawar, Ld. Adv.
Ms. Sapna Bhatia, Ld.
CIT DR**

**Date of hearing
Date of pronouncement**

**12.09.2022
12.09.2022**

ORDER

PER N.K. CHOUDHRY, JM:

The Assessee has preferred the instant appeal against the order dated 29-09-2016 impugned herein, passed by the Id. Commissioner of Income tax (Exemption), New Delhi (in short "Ld. Commissioner") u/s 10(23C)(iv) of the Income Tax Act, 1961 (in short "the Act"), pertaining to the assessment year 2017-18.

2. The Assessee vide application dated 12.9.2022 has requested the Tribunal for withdrawal of its appeal, inter alia, mentioning as under:

*"This has reference to the captioned appeal **filed** by Software Technology Park of India (**'the Appellant'**), against the order passed by the Learned Commissioner of Income Tax (Exemption) [**'Ld. CIT(E)'**] u/s 10(23C)(iv) of the Income Tax Act, 1961, (**'the Act'**).*

In this regard we, on behalf of and on the basis of information provided to us by the Appellant wish to submit as under:

*The Appellant filed an application dated September 26, 2016 in Form 56, with the Ld. CIT(E), for obtaining registration u/s 10(23C)(iv) of the Act. However, the same was rejected by the Ld. CIT(E) vide order dated September 29, 2017 (erroneously printed as 29.09.2016), enclosed as **Annexure - 1**.*

Aggrieved with the aforementioned order, the Appellant filed the captioned appeal before Hon'ble ITAT, which is fixed for hearing on 12.09.2022.

In this respect, we wish to state that vide Finance Act, 2020, first and second proviso to Section 11(7) of the Act have been inserted w.e.f June 01, 2020. After introduction of the aforementioned provisos, a taxpayer cannot simultaneously have two operative registrations i.e. u/s 12AA / 12AB and 10(23C) of the Act. The amended Section 11(7) of the Act is reproduced as under:

" Where a trust or an institution has been granted registration under section 12AA or section 12AB or has obtained registration at any time under section 12A as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996) and the said registration is in force for any previous year, then, nothing contained in section 10 other than clause (1), clause (23C) and clause (46) thereof shall operate to exclude any income derived from the property held under trust from the total income of the person in receipt thereof for that previous year:

Provided that such registration shall become inoperative from the date on which the trust or institution is approved under clause (23C) of section 10 or is notified under clause 946) of the said section, as the case may be, or the date on which this

proviso has come into force, whichever is later:

*Provided further that the trust or institution, whose registration has become inoperative under the first proviso, may apply to get its registration operative under section 12AA or section 12AB **subject to the condition that on doing so, the approval under clause (23C) of section 10 or notification under clause (46) of the said section. as the case may be, to such trust or institution shall cease to have any effect from the date on which the said registration becomes operative** and thereafter, it shall not be entitled to exemption under the respective clauses. ”*

Further after amendments introduced by Finance Act 2022, there is no significant difference left between the provisions of exemption availed u/s Section 11 and Section 10(23C) of the Act.

In view of the aforementioned amendments made by Finance Act, 2020 and Finance Act 2022, the Appellant now wishes to withdraw the aforementioned appeal due to the following reasons:

Provisions relating to exemption u/s 10(23C)(iv) and 11 of the Act have been amended and there is no significant difference between the two provisions.

The Appellant has been claiming exemption u/s 11 of the Act and in view of aforementioned amendments, no additional benefit would accrue to the Appellant even on succeeding in the appeal.

The Appellant has obtained registration under section 12AB of the Act.

Therefore, we humbly request the Hon'ble bench to allow withdrawal of appeal, without any finding on merits of the case.”

3. The learned DR raised no objection to the request so made on behalf of the Assessee. Accordingly, the Assessee is permitted to withdraw the instant appeal filed by it.

4. Assessee's appeal stands dismissed as withdrawn.

Order pronounced in open court on 12.09.2022.

**Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER**

**Sd/-
(N.K. CHOUDHRY)
JUDICIAL MEMBER**

MP

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI