

आयकर अपीलीय अधिकरण  
गुवाहाटी पीठ, कोलकाता में  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
GUWAHATI BENCH AT KOLKATA**

[वर्चुअल कोर्ट]  
[Virtual Court]

डॉ. मनीष बोरोड, लेखा सदस्य  
एवं  
श्री संजय शर्मा, न्यायिक सदस्य  
के समक्ष

**Before**

**DR. MANISH BORAD, ACCOUNTANT MEMBER  
&  
SRI SONJOY SARMA, JUDICIAL MEMBER**

**I.T.A. No.: 37/GTY/2021  
Assessment Year: 2019-20**

***Dr. Norman Tunnel Hospital.....Appellant  
[PAN: AABAD 1231 E]***

***Vs.***

***CIT (Exemption), Kolkata.....Respondent***

**Appearances by:**

*None appeared on behalf of the Assessee.*

*Sh. PS Thuingaleng, ACIT, appeared on behalf of the Revenue.*

Date of concluding the hearing : May 15<sup>th</sup>, 2023

Date of pronouncing the order : May 23<sup>rd</sup>, 2023

**ORDER**

**Per Manish Borad, Accountant Member:**

This appeal filed by the assessee pertaining to the Assessment Year (in short "AY") 2019-20 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the

“Act”) by ld. Commissioner of Income-tax (Exemption), Kolkata [in short ld. “CIT(E)”] dated 15.09.2020 arising out of the assessment order framed u/s 10(23C)(via) of the Act dated 15.09.2020.

2. The assessee is in appeal before the Tribunal raising the following grounds:

*“1. For that Ld. Commissioner of Income tax (Exemptions) was not justified in rejecting in limine the application of the appellants seeking registration u/s 10(23C)(via).*

*2. For that the appellant craves leave to alter or modify the above ground and put forth additional grounds, if any, at the time of hearing.”*

3. The assessee filed adjournment application but perusal of the records shows that the impugned order u/s 10(23C)(via) of the Act dated 15.09.2020 is *ex-parte*. When we asked ld. D/R that whether he has any objection if the impugned order is restored back to the file of ld. CIT(E) for fresh adjudication after considering the documents to be filed by the assessee, ld. D/R was fair enough not to oppose.

4. We, therefore, under the given facts and circumstances of the case, in the interest of justice and being fair to both the parties, are of the considered view that since the assessee did not get fair opportunity to file the documents to be submitted in order to get the approval u/s 10(23C)(via) of the Act and also considering the fact that only one notice dated 31.07.2020 was sent and no further notice has been issued to the party, we set aside the impugned order and restore it back to the file of ld. CIT (Exemption) for examining the issue of application u/s 10(23C)(via) of the Act afresh. Needless to mention that proper opportunity of being heard

should be provided to the assessee. The assessee is also directed to remain vigilant and file necessary documents, if considered, in support of its grounds of appeal and should not take adjournment, unless otherwise required for reasonable cause. In case after providing sufficient opportunity to the assessee, there is no compliance before the Id. CIT(A), then Id. CIT(A) can pass a speaking order in accordance with law.

5. In the result, the appeal filed by the assessee is allowed for statistical purposes.

**Kolkata, the 23<sup>rd</sup> May, 2023**

*Sd/-*  
[Sonjoy Sarma]  
Judicial Member

*Sd/-*  
[Manish Borad]  
Accountant Member

Dated: 23.05.2023

*Bidhan (P.S.)*

*Copy of the order forwarded to:*

- 1. Dr. Norman Tunnel Hospital, Moosalynghat, Jowai, Jaintia Hills District, Meghalaya-793 150.**
- 2. CIT (Exemption), Kolkata.**
3. CIT(A)-
4. CIT-
5. CIT(DR), Guwahati Bench, Guwahati.

*// True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata