

**आयकर अपीलीय अधिकरण, कोलकाता पीठ "बी", कोलकाता**

**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH: KOLKATA**

श्री राजेश कुमार, लेखा सटस्य एवं श्री प्रदीप कुमार चौबे, न्यायिक सदस्य के समक्ष  
[Before Shri Rajesh Kumar, Accountant Member & Shri Pradip Kumar Choubey, Judicial Member]

**I.T.A. Nos. 1058 & 1059/Kol/2025**

**Assessment Year: NA**

J. C. Sarkar Memorial Institution  (PAN: AADAJ 5881 E)	Vs.	CIT(Exemption), Kolkata
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	08.07.2025
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	22.07.2025
For the assessee / निर्धारिती की ओर से	Shri S Jhajharia, FCA
For the revenue / राजस्व की ओर से	Shri P. N. Barnwal, CIT DR

**ORDER / आदेश**

**Per Pradip Kumar Choubey, JM:**

These are the appeals preferred by the assessee against the separate orders of Commissioner of Income Tax (Exemption), -Kolkata (hereinafter referred to as the Ld.

CIT(A)] dated 08.08.2023. In both the appeals, issues are common, hence taken up together for disposal by taking in ITA No. 1058/Kol/2025 as a lead case.

2. It appears from the report of the registry that the appeal has been filed after statutory limitation, for this the assessee has filed condonation petition. On perusal of the condonation petition, the reason for delay in filing the appeal seems to be genuine and bonafide. The Ld. D.R did not raise any objection in condoning the delay. Keeping in view, the condonation petition as well as judicial pronouncement that the case should be decided on merit not on technical issue, the delay is hereby condoned.

3. Brief facts of the case of the assessee are that the assessee filed an application in Form no. 10AB for registration under Clause (iii) of Second Proviso to Sub-section (5) of Section 80G of the Act. An opportunity was given to the assessee but there was no compliance, as a result of which the application for registration under Clause (iii) of Second proviso to Sub-section (5) of Section 80G has been rejected in limine.

4. Aggrieved by the said order, the assessee preferred an appeal before us.

5. The Ld. A.R submits that the Ld. CIT(E) has failed to appreciate the facts the assessee was already enjoying the approval u/s 12A of the Act and there has not been any changes anything of the activities of the institution.

6. The Ld. D.R did not raise any objection in remitting the appeal of the assessee back to the file of Ld. CIT(E ) for fresh consideration.

7. Upon hearing the submission of the counsel of respective parties and on perusal of order of Ld. CIT(E ) it appears to us that the application has been rejected in limine, as there was no response submitted by the assessee when notice have been issued to produce relevant documents for verification. The only prayer of the AR is that the appeal of the assessee be remitted back to the file of Ld. CIT(E ) for fresh consideration with a direction to consider the documentary evidence filed by the assessee and passed afresh order.

8. Going over the order passed by the Ld. CIT(E ) and considering the submission made by the AR for the interest of justice, we are inclined to restore the appeal of the assessee before the Ld. CIT(E ) for fresh consideration with a direction to pass an order afresh after hearing the assessee.

In the result, both the appeals are allowed for statistical purposes.

Order is pronounced in the open court on 22<sup>nd</sup> July, 2025

Sd/-

Sd/-

(Rajesh Kumar/राजेश कुमार)

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)

Accountant Member/लेखा सदस्य

Judicial Member/न्यायिक सदस्य

Dated: 22<sup>nd</sup> July, 2025

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- J. C Sarkar Memorial Institution, Salarpuria Jajodia & Co. 7, Chittaranjan Avenue, Kolkata-700069
2. Respondent – CIT(Exemption), Kolkata
3. Ld. PCIT- , Kolkata
4. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata