

**आयकर अपीलीय अधिकरण, “डी” न्यायपीठ, कोलकाता****IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH, KOLKATA****BEFORE SHRI RAJESH KUMAR, ACCOUNTANT MEMBER  
AND****SHRI PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER****आयकर अपील सं/ITA No.125/KOL/2025****(निर्धारण वर्ष / Assessment Year : 2018-2019)**

M/s Shree Maheshwari Vidyalaya, 4, Maheswari Bhawan, Sovaram Bysack Street, Kolkata	Vs	ITO, Ward-1(3), Exemption, Kolkata
<b>PAN No. :AACTS 8958 D</b>		

<b>(अपीलार्थी /Appellant)</b>	..	<b>(प्रत्यर्थी / Respondent)</b>
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<b>निर्धारिती की ओर से /Assessee by</b>	:	Shri Sunil Surana, AR
<b>राजस्व की ओर से /Revenue by</b>	:	Shri Sailen Samadder, Sr. DR
<b>सुनवाई की तारीख / Date of Hearing</b>	:	24/03/2025
<b>घोषणा की तारीख/Date of Pronouncement</b>	:	21/04/2025

**आदेश / ORDER****Per Rajesh Kumar, AM:**

This is an appeal filed by the assessee against the order dated 06/01/2025, passed by the Id. Addl./JCIT(A)-2, Hyderabad, for the assessment year 2018-2019.

2. The only issue raised in this appeal is against the action of Id. CIT(A) in confirming the disallowance made by the CPC, Bangalore of Rs.4,20,23,463/- in the intimation issued u/s.143(1) of the Act, which was claimed by the assessee as exempt u/s.11 of the Act.

3. Facts in brief are that the assessee filed return of income, which was processed u/s.143(1) of the Act vide order dated 21.11.2019 by the DCIT, CPC. In the said intimation, exemption of Rs.4,20,23,463/- claimed by the assessee in terms of Section 11(1) of the Act was disallowed on the ground for which no reasons were assigned in the intimation and no

prior intimation was given to the assessee for making such adjustments u/s.143(1)(a) of the Act. The assessee is a registered charitable trust registered u/s.12A of the Act vide order dated 22.05.2002. In the impugned assessment order, the due date of filing of the return was 30.09.2018 and accordingly audit report in Form No.10B was due on 31.08.2018, however, the return of income was filed on 30.09.2018 and Form 10B was filed on 03.10.2018. In the appellate proceedings, the Id. CIT(A) dismissed the appeal of the assessee on the ground that the assessee has not filed Form 10B within the time as prescribed under the Act.

4. After hearing the rival submissions of the parties and perusing the material available on record, we find that the assessee has filed the audit report within the due date i.e. on 15.10.2018 and there is no delay in filing Form 10B. Moreover, we note that before making addition u/s.143(1)(a) of the Act, the assessee was not given any show cause , which is mandatory under the Act. Therefore, the intimation passed u/s.143(1) of the Act dated 17.10.2019 is not sustainable in the eyes of law. Our view is supported by the decision of the coordinate bench of the Tribunal in the case of M/s Radha Krishna Mandir Trust Vs. The ITO(Exemption), passed in ITA No.48/Kol/2025, order dated 12.03.2025, wherein the coordinate bench of the Tribunal has held that addition made in the intimation passed u/s 143(1)(a) of the Act without giving prior show cause notice to the assessee is bad in law and has to be quashed.

5. We, respectfully following the decision of the Tribunal, which has been rendered under the similar facts and circumstances, set aside the order of the Id.CIT(A) and direct the AO to delete the addition made u/s.143(1) of the Act. Thus, appeal of the assessee is allowed.

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

Order pronounced in the open court on 21/04/2025.

**Sd/-**  
**(PRADIP KUMAR CHOUBEY)**

**न्यायिक सदस्य / JUDICIAL MEMBER**

**Sd/-**  
**(RAJESH KUMAR)**

**लेखा सदस्य/ ACCOUNTANT MEMBER**

**कोलकाता** Kolkata; दिनांक Dated 21/04/2025

*Prakash Kumar Mishra, Sr.P.S.*

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, **कोलकाता** / DR,  
ITAT, Kolkata
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

सत्यापित प्रति //True Copy//

**(Assistant Registrar)**  
**Income Tax Appellate Tribunal, Kolkata**