

IN THE INCOME TAX APPELLATE TRIBUNAL "C", BENCH KOLKATA
BEFORE SHRI N.V.VASUDEVAN, JM & DR. A.L.SAINI, AM

आयकर अपील सं./ITA No.1045/KoI/2015

(निर्धारण वर्ष /Assessment Year:)

Angel English School Management Committee, Village & PO : Sualkuchi, Kamrup (Assam)-781030 Dist: Kamrup (M), Assam	Vs.	CIT(Exemption), Kolkata-71
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AACAA 5124 G		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by : None

राजस्व की ओर से /Revenue by : Shri G.Mallikarjuna, CIT DR

सुनवाई की तारीख / **Date of Hearing** : **24/11/2016**

घोषणा की तारीख/**Date of Pronouncement** **30/11/2016**

आदेश / O R D E R

Per Dr. Arjun Lal Saini, AM:

The captioned appeal filed by the assessee, is directed against an order passed by Id. Commissioner of Income Tax (Exemptions), Kolkata vide File No.10E/186/2014-15, dated 27.05.2015.

2. The Assessee filed this appeal challenging the order dated 27.05.2015 passed by the Commissioner of Income Tax (Exemptions), Kolkata (vide his File No.10E/186/2014-15),rejecting the application filed by the assessee (in Form No.10A) seeking registration U/s 12AA of the Act.

3. Brief facts of the case qua the issue are that the assessee had filed an application in Form No.10A on 11-11-2014 in the office of the CIT(Exemptions) Kolkata, in order to get the "Angel English School Management Committee", registered u/s.12AA of the I.T.Act. Initially, the

assessee filed an application with the CIT, Ghy-I, Guwahati, which was later on transferred to the Principal Commissioner of Income Tax (OSD), Kolkata. The CIT(Exemptions), verified the documents and he found that the application made by the assessee was not accompanied by the Certificate of Registration issued under Society Registration Act and Memorandum of Association in original. However, the CIT(Exemptions), in order to remove the defects, sent the notice to the assessee dated 26.12.2014, but non-appeared on behalf of the assessee, therefore, the application for registration u/s.12AA had been cancelled by the CIT(Exemptions).

4. Aggrieved, from the order of the CIT (Exemptions), Kolkata, the assessee is in further appeal before us and has taken the following grounds of appeal :-

1. *The order of the learned Commissioner of Income Tax (Exemption) Kolkata rejecting the registration u/s.12AA of the Income Tax Act, 1961 is bad in law and on facts and the appellant should be allowed registration u/s.12AA of the Income Tax Act, 1961.*

5. Ld. AR for the assessee has submitted before us that because of communication gap between the CIT (Exemptions) and the assessee, the assessee could not attend the office of the CIT(Exemptions) on the stated date. Ld. AR, therefore, requested us to direct the CIT (Exemptions) to hear the assessee again and grant the exemption u/s.12AA of the I.T.Act. He further stated that in the interest of justice and fair play, an opportunity should be given to the assessee. Even the Id DR has also agreed to remit the case back to the File of the CIT(Exemptions).

6. Having heard the rival submissions, perused the material available on record, we are of the view that there is merit in the submissions of the assessee, as the propositions canvassed by the Id. AR for the assessee are supported by the facts narrated by him above. Ld. AR for the assessee has pointed out that because of communication gap the assessee could not attend the office of the CIT (Exemptions) on the said date. The assessee is going to register u/s.12AA as a Charitable Trust. In the interest of justice, we are of the view to provide an opportunity to the assessee to appear before the Commissioner of Income Tax (Exemptions) and file the necessary documents/explanations to get the assessee trust registered u/s.12AA of the Act. Accordingly, we direct the CIT (Exemptions) to give an opportunity to the assessee of being heard and to file necessary documents and explanations, get the trust registered u/s.12AA of the Act. We also direct the assessee to file the necessary documents such as certificate of registration issued under Society Registration Act, Memorandum of Association in original and other documents required by the CIT(Exemptions).

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on this 30/ 11/2016.

Sd/-

(N.V.VASUDEVAN)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-

(DR. A.L.SAINI)

लेखा सदस्य / ACCOUNTANT MEMBER

कोलकाता /Kolkata; दिनांक Dated 30/11/2016

प्रकाश मिश्रा/Prakash Mishra,नि.स/ PS

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

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

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार

(Asstt. Registrar)

आयकर अपीलीय अधिकरण, कोलकाता / ITAT, कोलकाता