

**IN THE INCOME TAX APPELLATE TRIBUNAL  
PATNA BENCH, PATNA**

**Before Sh. N. K. Saini, AM and Sh. Sudhanshu Srivastava, JM**

**ITA No. 57/Pat./2016 : Asstt. Year :**

**ITA No. 58/Pat./2016 : Asstt. Year :**

Garib Vikas Sewa Samiti, Vill-Jamua, P.O.-Jamua, P.S. & Block-Dhaka, Distt. East Champanan-845418, Bihar	Vs	Commissioner of Income Tax (Exemptions), Patna (Bihar)
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AACAG2671G</b>		

**Assessee by : Sh. Shikesh Jha, Adv.**

**Revenue by : Smt. Archana Sinha, Sr. S.C.**

**Date of Hearing : 13.03.2018**

**Date of Pronouncement : 14 .03.2018**

**ORDER**

**Per N. K. Saini, AM:**

These appeals by the assessee are directed against the separate orders each dated 28.04.2016 of Id. CIT(Exemptions), Patna.

2. Since, the appeals relate to the same assessee and were heard together so these are being disposed off by this consolidated order for the sake of convenience and brevity.

3. At the first instance, we will deal with the appeal in ITA No. 57/Pat./2016. The only grievance of the assessee in this appeal relates to the refusing to register the assessee society u/s 12AA of the Income Tax Act, 1961 (hereinafter referred to as the Act).

4. Facts of the case in brief are that the assessee filed an application in Form No. 10A of the Income Tax Rules, 1962 for

registration u/s 12AA of the Act on 15.10.2015. The ld. CIT(E) asked the assessee to furnish certain papers/documents vide letter dated 03.03.2016. The ld. CIT(E) mentioned that nobody appeared nor any adjournment was sought. He, therefore, rejected the application by observing that from the papers/documents attached with the application in Form No. 10A, it was established that the aims & objects of the assessee society and its activities were not genuine.

5. Now the assessee is in appeal. The ld. Counsel for the assessee stated that no opportunity of being heard was provided by the ld. CIT(E) and no notice for hearing was served upon the assessee.

6. In his rival submissions, the ld. Sr. Standing Counsel for the department supported the order of the ld. CIT(E).

7. We have considered the submissions of both the parties and carefully gone through material available on record. In the present case, it is an admitted fact that the ld. CIT(E) passed an *ex-parte* order, however, it is not brought on record as to whether the notice for hearing on 03.03.2016 was served upon the assessee or not. The ld. CIT(E) also did not bring any material on record to substantiate that how and in what manner, the activities of the assessee were not according to its aims and objects and that these were not genuine. It is well settled that nobody should be condemned unheard as per the *maxim* “*audi alteram partem*”. We, therefore, considering the totality of the facts of the present case, deem it appropriate to set aside this case back to the file of the ld.

CIT(E) to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee.

8. In ITA No.58/Pat./2016, the facts are similar to the facts involved in ITA No. 57/Pat./2016 (supra). Therefore, our findings given therein shall apply *mutatis mutandis*. In that view of the matter, this appeal is also restored to the file of the Id. CIT(E) for fresh adjudication in accordance with law after providing due and reasonable opportunity of being heard to the assessee.

9. In the result, the appeals of the assessee are allowed for statistical purposes.

(Order Pronounced in the Court on 14 /03/2018)

Sd/-

**(Sudhanshu Srivastava)**  
**JUDICIAL MEMBER**

Sd/-

**(N. K. Saini)**  
**ACCOUNTANT MEMBER**

**Dated: 14 /03/2018**

\*Subodh\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR**

		Date	<u>Initial</u>	
1.	Draft dictated on	13.03.2018		PS
2.	Draft placed before author	13.03.2018		PS
3.	Draft proposed & placed before the second member			JM/AM
4.	Draft discussed/approved by Second Member.			JM/AM
5.	Approved Draft comes to the Sr.PS/PS			PS/PS
6.	Kept for pronouncement on			PS
7.	File sent to the Bench Clerk			PS
8.	Date on which file goes to the AR			
9.	Date on which file goes to the Head Clerk.			
10.	Date of dispatch of Order.			