

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

Before Sh. N. K. Saini, AM and Sh. Amit Shukla, JM

ITA No. 25/Pat./2015 : Asstt. Year :

Prakhar Education Trust, Flat No. 402, Birendra Residency, Rajendra Nagar, Patna-800016	Vs	Commissioner of Income Tax (Exemptions), 2 nd Floor Central Revenue Building, Birchand Patel Marg, Patna-800001
(APPELLANT)		(RESPONDENT)
PAN No. AACTP5629E		

Assessee by : None

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

Date of Hearing : 05.03.2018	Date of Pronouncement : 05.03.2018
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ORDER

Per N. K. Saini, AM:

This is an appeal by the assessee against the order dated 27.01.2015 of Id. CIT(Exemptions), Patna.

2. During the course of hearing nobody was present on behalf of the assessee neither any adjournment was sought. We, therefore, proceeded *ex-parte* and the appeal has been decided after considering the submissions of the Id. Sr. Standing Counsel appearing on behalf of the department.

3. 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 Income Tax Act, 1961 on 14.07.2014. The Id. CIT(E) observed that the case was adjourned to 27.01.2014 with a direction to produce reply to the query relating to the purchase of land amounting to Rs.12,99,000/- from Sh. Nabin

Kumar Jha, the founder cum Chairman of the Trust-on 19.01.2014. The Id. CIT(E) mentioned that nobody appeared on 27.01.2015 and the case was going to be barred by limitation on 31.01.2015 and rejected the application moved by the assessee.

4. Now the assessee is in appeal. The Id. Sr. Standing Counsel for the department supported the impugned order passed by the Id. CIT(E).

5. We have considered the submissions of Id. Sr. Standing Counsel for the department and the material available on record. The Id. CIT(E) mentioned that the case was adjourned to 27.01.2014 and nobody appeared on 27.01.2015, so it is not clear how the presence was required after one year. It is also not mentioned in the impugned order that the notice for hearing was served upon the assessee. 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 Id. CIT(E) to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee.

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

(Order Pronounced in the Court on 05/03/2018)

Sd/-
(Amit Shukla)
JUDICIAL MEMBER

Sd/-
(N. K. Saini)
ACCOUNTANT MEMBER

Dated: 05/03/2018

Subodh