

आयकर अपीलीय अधिकरण, न्यायपीठ – “बी” कोलकाता,  
**IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA**  
(समक्ष) श्री पी. एम.जगताप, लेखा सदस्य एवं श्री ए. टी. वर्की, न्यायिक सदस्य)  
[Before Shri P.M. Jagtap, AM & Shri A. T. Varkey, JM]

**I.T.A. No. 606/Kol/2016**  
**Assessment Year: 2010-11**

ITO(E), Wd-1(3), Kolkata	Vs.	Spiritual Hierarchy Publication Trust (PAN: AAITS 2972 D)
Appellant		Respondent

Date of Hearing	08.02.2018
Date of Pronouncement	01.05.2018
For the Appellant	Shri S. Dasgupta, Addl. CIT(DR)
For the Respondent	Shri Arvind Agarwal, Advocate

**ORDER**

**Per Shri A.T.Varkey, JM**

This is an appeal preferred by the revenue against the order of the Ld. CIT(A)-25, Kolkata dated 21.01.2016 for assessment year 2010-11. The main grievance of the revenue is against the action of the Ld. CIT(A) in allowing exemptions to the income of assessee trust u/s 11(4) and 11(4a) of the Act.

2. Brief facts of this case are that the assessee trust is registered u/s 12A of the Act and has approval u/s 80G. The AO during the assessment for assessment year 2010-11 was of the opinion that since the assessee is engaged in the activity of printing and publishing and selling/distributing various books, magazines, E-books, CDs, DVDs, photographs, audio-video tapes and other printed materials is

engaged purely commercial ventures with profit motive and therefore according to him was not eligible for the benefit of exemption u/s 11 of the Act and assessed income at Rs. 3,08, 41,503/-. Aggrieved the assessee preferred an appeal before the Ld. CIT(A) who was pleased to allow the assessee's appeal. Aggrieved the revenue is before us.

3. We have heard both the parties and perused the records. We note that AO while passing the impugned assessment order had simultaneously took up the matter with the Id. DDIT(Exemp) to cancel the 12A registration granted to the assessee. The Id. DDIT(E) vide a reasoned order dated 10.06.2013 was pleased to drop the said proceedings and thereby still the assessee trust is enjoying 12A registration. It was brought to our notice that for the subsequent years i.e. assessment year 2011-12, the AO has accepted that the assessee trust is eligible for exemption of its income u/s 11 of the Act. We also note that the assessee trust was established by deed of trust on 08.04.2009 and the trust was registered u/e 12AA of the Act w.e.f. 24.06.2009 and approval u/s 80G(5)(vi) was granted on 14.05.2009. We note that the main object of the trust is to educate and propagate among the general public and art and science of yoga and meditation through publication, printing /distribution of spiritual journals, periodicals, pamphlets, magazines, news papers, printed books, e-books, CDs, DVDs, either free of cost or at concessional price. The AO was of the opinion that the assessee was carrying out a commercial activity under the garb of education and therefore he denied exemption of income u/s 11 and treated excess income over expenditure as the business income of the trust and simultaneously took up the matter with the DDIT(E) for cancellation of the registration granted u/s 12AA of the Act. We

note that the DDIT(E) has dropped the proceedings after hearing the assessee trust by a reasoned order dated 10.06.2013. As per the proviso to section 2(15) the advancement of any other object of general public utility shall not be a charitable purpose; if it involves the carrying of any activity in the nature of trade, commerce, business or any activity of rendering in his service being relevant to trading, commercial and business for cess of fee or any other consideration. We note that the assessee trust has not been formed with an objective for advancement of any other object of general public utility. Therefore, proviso to section 2(15) does not come into play. The main object of the assessee as noted earlier is to educate and propagate the art and science of yoga and meditation. The term 'education' enjoys wide connotations covering all kinds of training carried on in a systematic manner, leading to personality development of an individual. There is nothing in the Act which gives a restricted meaning. Therefore, since the main object of the assessee trust is to propagate and educate the general public, the art and science of yoga and meditation through publication by printing as well as digital and other forms stated above cannot be brought under the proviso to section 2(15) of the Act. The AO erred in misdirecting himself by taking a view that the assessee is engaged in the commercial activity only with a profit motive. We note that the DDIT(E) has given a reasoned order as to why he has dropped the proceedings for cancellation of sec. 12A registration taken up by the AO. We note that the assessee has distributed free of cost books amounting to Rs. 12,12,470/- and the cost of books given free to Shri Ram Krishna Mission amounted to Rs. 14,72,848/-. Thus, books worth Rs. 28.88 lacs were distributed free of cost for achieving of object for each the assessee trust was formed and AO wrongly assumed that the assessee did not carry out any charitable activity. We also note that for AY 2011-12, the AO himself has

accepted that assessee trust is eligible for exemption u/s. 11 of the Act. In the aforesaid facts and circumstances of the case, we are inclined to affirm the impugned order of Ld. CIT(A) and therefore, we dismiss the revenue appeal.

4. In the result, the appeal of the revenue is dismissed.

Order is pronounced in the open court on 01.05.2018

Sd/-

(P.M Jagtap)  
Accountant Member

Sd/-

(Aby. T. Varkey)  
Judicial Member

Dated : 1<sup>st</sup> May, 2018

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant – ITO(E), Wd-13, Kolkata, 6<sup>th</sup> Floor, 10B, Middleton Row, Kolkata-700071.
2. Respondent – Spiritual Hierarchy Publication Trust, 2/3, Judges Court Road, Kolkata-700027.
3. The CIT(A) Kolkata.
4. CIT Kolkata
5. DR, ITAT, Kolkata.

/True Copy,

By order,

Sr. Pvt. Secretary