

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक
IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK
BEFORE SHRI N.S.SAINI, AM & SHRI PAVAN KUMAR GADALE, JM

आयकर अपील सं./ITA No.266/CTK/2018

(निर्धारण वर्ष / Assessment Year :)

Oriya Baptish Church, At-Giri Road, Berhampur, Ganjam, Odisha	Vs.	CIT(Exemptions), 2 nd Floor, Ayakar Bhawan, Basheer Bagh, Hyderabad-4
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAATO 4127 C		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by : None

राजस्व की ओर से /Revenue by : Shri Saad Kidwai, CITDR

सुनवाई की तारीख / Date of Hearing : 12/09/2018

घोषणा की तारीख/Date of Pronouncement 27/09/2018

आदेश / ORDER

Per Shri Pavan Kumar Gadale, JM:

This is an appeal filed by the assessee against the order of CIT(E), Hyderabad, dated 31.01.2018, passed in F.No.CIT(E)/Hyd/81(07)/12A/2017-18.

2. None appeared on behalf of the assessee when the case was called for hearing, neither any adjournment petition has been filed by the assessee, therefore, the bench decided to dispose off after considering the facts of the case and submissions of Id. DR.

3. The assessee has raised the following grounds of appeal :-

1. *That the order U/s. 12AA (I)(b)(ii) dated 31.01.2018 passed by the Learned Commissioner of Income Tax (Exemptions), Hyderabad in rejecting the application for registration u/s, 12AA is unjustified, arbitrary, excessive, contrary to evidences and bad in law.*
2. *That the order passed is without giving the appellant any reasonable opportunity of being heard as required under proviso to subsection 1 of section 12AA of the Income Tax Act, 1961.*

3. *That the order of the Learned CIT (Exemptions) though dated 31.01.2018, i.e. on the last day before expiration of 6 months from the end of the month on which the application dated 26.06.17 was filed, has been sent to the appellant on 03.05.18 vide speed post no EN423141387IN implying that the order was not passed within the time period as mentioned under subsection 2 of section 12AA of the Income Tax Act, 1961.*
 4. *That the Learned CIT (Exemptions) has erred in stating that that the trust does not have any independent existence despite having established in the year 1838 as a public religious and as a not for profit organization and having a trust deed, its own activities, own Staff, getting their accounts audited, having their PAN and Bank Accounts.*
 5. *That the learned CIT (Exemptions) has ignored the main objects for which the trust is formed which are religious and charitable as mentioned in the trust deed.*
 6. *That the Learned CIT (Exemptions) has erred in concluding that the accounts are not genuinely maintained and are not of charitable activities and does not inspire the genuineness of the activities despite the accounts being audited by Independent Chartered Accountant and the accounts evidencing expenses under various religious and charitable activities.*
 7. *The appellant craves to amend, modify, alter, amend or revise any ground of appeal subsequently or during the course of proceedings.*
4. The assessee filed an application in Form 10A on 26.07.2017 seeking registration u/s.12A of the Act, and was rejected by the CIT(E), Hyderabad on the ground of doubtfulness on the genuineness of the society activities .
5. Aggrieved by the order of CIT(E), the assessee filed an appeal before the Tribunal.
6. At the time of hearing, none appeared on behalf of the assessee, and Id. DR made submission and relied on the order of CIT(E).

7. We have heard the submissions of Id. DR and perused the material on record and order of lower authority. Prima facie, we find that the CIT(E) rejected the application of the assessee-society for registration u/s.12AA of the Act by observing that the accounts are not genuinely maintained and does not satisfy the charitable activities, whereas the assessee in grounds of appeal, has submitted that the accounts have been audited by Chartered Accountant and the audited accounts are based and supported by the expenses of religious and charitable activities, further the CIT(E) has rejected the application without granting proper opportunity of hearing to the assessee to present its case. Therefore, in the interest of substantial justice, we provide one more opportunity to the assessee to substantiate its claim for granting the registration u/s.12AA of the Act before the CIT(E). Accordingly, we restore the entire disputed matter to the file of CIT(E) for fresh adjudication and CIT(E) shall provide adequate opportunity of hearing to the assessee and further the assessee shall cooperate in submitting the documents and information for early disposal of the case. Accordingly, grounds of appeal of the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on this 27/09/2018.

Sd/-
(N.S.SAINI)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)

न्यायिक सदस्य / JUDICIAL MEMBER

कटक Cuttack; दिनांक Dated 27/09/2018

प्र.कु.मि/PKM, Senior Private Secretary

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

1. अपीलार्थी / The Appellant-
Oriya Baptist Church, At-Giri Road,
Berhampur, Ganjam, Odisha
2. प्रत्यर्थी / The Respondent-
CIT(Exemptions), 2nd Floor, Ayakar Bhawan,
Basheer Bagh, Hyderabad-4
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR, ITAT, Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Senior Private Secretary)

आयकर अपीलीय अधिकरण, कटक /
ITAT, Cuttack