

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH : BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER  
AND  
SMT. BEENA PILLAI, JUDICIAL MEMBER**

<b>ITA Nos. 585 &amp; 586/Bang/2018</b>
<b>Assessment Years : 1999-2000 &amp; 2000-01</b>

M/s. Ananda Social and Educational Trust, No. 24, Kadugondanahalli, Bangalore – 560 045. PAN: AAATA7392M	<b>Vs.</b>	The Deputy Commissioner of Income Tax, Central Circle 1 (3), Bangalore.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri V. Sridhar, CA
Revenue by	:	Ms. Neera Malhotra, CIT (DR)

Date of Hearing	:	13-09-2021
Date of Pronouncement	:	25 -10-2021

**ORDER**

**PER BEENA PILLAI, JUDICIAL MEMBER**

Present appeal is filed by assessee against separate orders dated 09/01/2018 passed by the Ld.CIT(A)-11, Bangalore.

**2.** At the outset, the Ld.AR submitted that **Ground nos. 1-2** are general in nature.

He submitted that assessee do not wish to press the following grounds for Assessment Year 1999-2000.

*“3. The learned CIT(Appeals) ought to have annulled the assessment as the reasons recorded for reopening of the assessment were mainly from the unsustainable order of DIT(Exemptions) and had no rational connection with or relevant for the formation of the belief with the income escaping assessment.*

4. *The learned CIT(Appeals) should have appreciated that the Assessing Officer has not independently and objectively applied his mind while recording the reasons for reopening, but took into account extraneous and irrelevant considerations.*

5. *The learned CIT(Appeals) ought to have appreciated that there being negative income even after making unsustainable additions, there was no tax liability, and hence no income escaping assessment.*

6. *The learned CIT(Appeals) erred in observing that the appellant has not taken the ground of inadequate reasons for reopening of the assessment any time before, little realising that it is a legal issue which can be taken at any stage of the proceedings.”*

And following grounds for A.Y. 2000-01:

“2. *The learned CIT (Appeals) ought to have held that the order of the Assessing Officer is opposed to principles of natural justice. The specific directions of ITAT's order dated: 31.7.2015 have not been followed in letter and spirit.*

3. *The learned CIT(Appeals) ought to have held that the assessment is bad in law in the absence of proof of service of notice u/s 148, as such a lacuna cannot be cured.*

4. *The learned CIT(Appeals) ought to have held that the assessment completed without service of notice issued u/s 148 in accordance with the provisions of section 282(1) is bad in law, invalid and liable to be quashed. The CIT(A) ought to have held that the onus is on the Assessing Officer to establish that notice has been duly served on the assessee.*

5. *The CIT(Appeals) ought to have observed that the service of notice on the appellant is a jurisdictional requirement and not a procedural requirement, the non-compliance of which renders the assessment illegal.*

6. *The CIT(Appeals) ought to have appreciated that participation in the proceedings cannot constitute waiver of requirement for effecting proper service of notice.*

7. *The learned CIT(Appeals) ought to have annulled the assessment as the reasons recorded for reopening of the assessment were mainly from the unsustainable order of DIT(Exemptions) and had no rational connection with or relevant for the formation of the belief with the income escaping assessment.*

8. *The learned CIT(Appeals) should have appreciated that the Assessing Officer has not independently and objectively applied his mind while recording the reasons for reopening, but took into account extraneous and irrelevant considerations.*

9. *The learned CIT(Appeals) ought to have appreciated that there being negative income even after making unsustainable additions, there was no tax liability, and hence no income escaping assessment.*

10. *The learned CIT(Appeals) erred in observing that the appellant has not taken the ground of inadequate reasons for reopening of the assessment any time before, little realising that it is a legal issue which can be taken at any stage of the proceedings.*

11. *The learned CIT(Appeals) ought to have held that the assessment completed on an improper return of income form and therefore a defective return, is bad in law.”*

**Accordingly these grounds are dismissed as not pressed.**

**3.** The issue raised in rest of the grounds for both assessment years relates to seeking benefit of registration granted under section 12AA of the Act with retrospective effect from assessment year under consideration.

The Ld.AR submitted that up to assessment year 1998-99 assessee was eligible for exemption under section 10 (22) of the Act. For interregnum period assessee neither has any registration under section 10(22) of the Act, nor under section 12AA of the Act.

**4.** It is submitted that vide order dated 24/08/2017 passed by this *Tribunal* the Ld.CIT( E) granted recognition to assessee under section 12AA of the Act with effect from assessment is 2002-03.

The Ld.CIT(A) observed that, due to the removal of section 10(22) with effect from 01/04/1999, the entitlement of exemption and under the relevant provisions was not available to assessee he has also observed that assessee has not made any application

seeking exemption under section 10(23C) of the act. And subsequently assessee applied for exemption under section 12 AA of the Act vide application dated 21/09/2006 with effect from 10/01/1980. The Ld.CIT(A) observed that due to the intervention of this *Tribunal* by its order dated 24/08/2007 which was also approved by *Hon'ble High Court* the exemption was granted from assessment a 2002-03 onwards. The Ld.CIT(A) also denied exemption claimed under section 11 of the act for year under consideration.

**5.** Before as also assessee seeking retrospective effect of the exemption granted with effect from assessment a 2002-03, for the relevant assessment years. This in our view is a far-fetched argument that cannot be entertained such tests by this forum.

**6.** In our opinion, there is no fault in the view taken by the Ld.CIT(A). Assessee has been rightly sent under the normal provisions of the act by the authorities.

**Accordingly the grounds raised by assessee in both the appeals stands dismissed in this respect.**

**In the result appeals filed by assessee for both assessment years stands dismissed.**

Order pronounced in the open court on 25<sup>th</sup> October, 2021.

Sd/-  
**(CHANDRA POOJARI)**  
**Accountant Member**

Sd/-  
**(BEENA PILLAI)**  
**Judicial Member**

Bangalore,  
Dated, the 25<sup>th</sup> October, 2021.  
/MS/

**Copy to:**

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore
6. Guard file

By order

Assistant Registrar,  
ITAT, Bangalore.