

**IN THE INCOME TAX APPELLATE TRIBUNAL "B"**  
**(Virtual Court Hearing) BENCH KOLKATA**

**Before Shri Sanjay Garg, Judicial Member and Shri Rajesh Kumar, Accountant Member**

**I.T.A. No.450/Kol/2020**  
Assessment Year: 2020-21

**Probodh Kumar Daw Memorial Charitable Trust.....Appellant**  
**Manindranagar, Cossimbazar Raj,**  
**Berhampore-742102.**  
**[PAN: AACTP9683L]**

**vs.**

**CIT(Exemption), Kolkata.....Respondent**

**Appearances by:**

Shri Sanjib K. Das Sarma, A.R, appeared on behalf of the appellant.

Shri Sudipta Guha, CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : December 06, 2021

Date of pronouncing the order : December 06, 2021

**Hearing through Video Conferencing**

**ORDER**

**Per Shri Sanjay Garg, Judicial Member:**

The present appeal has been preferred by the appellant-trust against the order dated 28.01.2020 of the Commissioner of Income Tax (Exemption), Kolkata [hereinafter referred to as 'CIT(Exemption)'] passed u/s 12AA of the Income Tax Act (hereinafter referred to as the 'Act') rejecting the application of the appellant for registration u/s 12A of the Act.

2. At the outset, the Ld. counsel has invited our attention to the impugned order of the Ld. CIT(Exemption) to submit that the same is an ex parte order. The Ld. counsel has submitted that the appellant-trust is situated in a small town and the trust is run by aged persons and they were not conversant with the online system. That as per the prevailing rules, the application was required to be filed through online system. Though, the appellant-trust had engaged a counsel but did not inform them about the procedure of online proceedings and nor did he himself appeared before Ld. CIT(Exemption) resulting in ex parte proceedings. The Ld. counsel has submitted that the appellant-trust has a fair case on merits. That they may be given an opportunity to present their case before the Ld. CIT(Exemption). The Ld. DR, on the other hand, has relied on the finding of the Ld.

CIT(Exemption) to submit that since no one appeared on behalf of the appellant-trust therefore, the Ld. CIT(Exemption) was justified in passing the impugned ex parte order.

3. We have considered the rival contentions of the Ld. representatives of the parties. We find that the application of the appellant-trust has been dismissed on the ground that no one appeared on behalf of the appellant-trust to submit necessary verification etc. for which the appellant-trust has given reasons of their non-appearance before the Ld. CIT(Exemption). In our considered view, natural justice will be well-served, if the appellant-trust is given an opportunity to present their case before the Ld. CIT(Exemption). In view of this, the impugned order of the Ld. CIT(Exemption) is set aside and the matter is restored to the file of Ld. CIT(Exemption). Needless to say that the Ld. CIT(Exemption) will give proper opportunity to the appellant-trust to present their case.

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

***Kolkata, the 6<sup>th</sup> December, 2021.***

Sd/-  
**[Rajesh Kumar]**  
**Accountant Member**

Sd/-  
**[Sanjay Garg]**  
**Judicial Member**

Dated: 06.12.2021.

RS

*Copy of the order forwarded to:*

1. Probodh Kumar Daw Memorial Charitable Trust
2. CIT(Exemption), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Sr.PS/D.D.O, Kolkata Benches