

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE BENCHES "C", BANGALORE**

**Before Shri George George K, JM & Shri B.R.Baskaran, AM**

ITA No.575/Bang/2021: Asst.Year 2016-2017

ITA No.576/Bang/2021: Asst.Year 2017-2018

The Deputy Commissioner of Income-tax (Exemption) Bengaluru.	v.	M/s.Ananda Social and Education Trust #24, Kadugondanahalli Bengaluru – 560 045. <b>PAN : AAATA7392M.</b>
(Appellant)		(Respondent)

Appellant by : Sri.Pradeep Kumar, CIT-DR

Respondent by : Sri.V.Shridhar, Advocate

<b>Date of Hearing : 23.12.2021</b>	<b>Date of Pronouncement : 23.12.2021</b>
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**ORDER**

**Per George George K, JM**

These appeals at the instance of the Revenue are directed against two orders of the CIT(A), both dated 15.09.2021. The relevant assessment years are 2016-2017 and 2017-2018.

2. The grounds raised are identical for both the assessment years, they read as follows:-

*“1. Whether on the facts and in the circumstances of the case and in law, the CIT(A), NFAC is right in law in allowing the claim of the assessee of exemption u/s 11 of the Income Tax Act, when the appeal regarding issue of granting Registration w.e.f. A.Y. 2002-03 before Hon’ble High Court is still pending and has not reached finality?”*

*2. Any other grounds which may arise at the time of hearing.*

3. *The order of the learned CIT(A), NFAC is not acceptable and the order of the A.O., may be confirmed.*”

3. The brief facts of the case are as follows:

For the assessment years 2016-2017 and 2017-2018, the benefit of exemption u/s 11 of the Act was denied for the reason that assessee has not produced registration certificate u/s 12A / 12AA of the Act from the competent authority. The relevant observation of the A.O. for assessment year 2016-2017 in denying the benefit of exemption, reads as follows:-

*“3. During the scrutiny proceedings assessee is requested to produce the 12A / 12AA registration certificate issued by competent authority in support of claim of exemption. The assessee is unable to produce such certificate till date. However, he has filed an order of ITAT in ITA No.591/Bang/2007 dated 24.08.2017 wherein Hon’ble ITAT has directed the DIT (Exemption) / CIT (Exemption) to grant the registration to the assessee under section 12AA for the Assessment Year 2002-03 onwards.*

*3.1 Though the ITAT order is in favour of assessee to grant registration under section 12AA, the certificate of registration under 12AA is required to be produced to consider the assessee as “TRUST”. The assessee is unable to produce such certificate as on date. Considering this fact, the assessee is hereby not treated as trust in absence of registration certificate and the assessment is concluded treating the assessee under status “AOP”. Accordingly, the Profit and Loss account and computation of income is done as status of AOP.”*

4. Aggrieved by the assessment orders for assessment years 2016-2017 and 2017-2018, denying the benefit of exemption, the assessee filed appeals before the first appellate authority. Before the first appellate authority, the assessee produced copy of the registration certificate issued by the DIT (Exemption) (order dated 03.12.2020 and corrigendum dated 11.02.2021). The CIT(A) after examining the registration

certificate, directed the A.O. to grant the benefit of exemption u/s 11 of the Act for assessment years 2016-2017 and 2017-2018. The relevant finding of the CIT(A) for assessment year 2016-2017, reads as follows:-

*“5.1 I have considered the submission of the appellant and the order u/s 143(3) passed by the Ld AO. The only issue involved in the instant case is that the Ld AO in the order passed u/s 143(3) for the impugned AY has not considered the registration granted to the appellant u/s 12AA of the Act by the Hon'ble Income tax Appellate Tribunal, Bangalore vide its order No. ITA No. 591/Bang/2007, dt. 24.08.2017. It is seen that the Ld AO has acknowledged to have received the Hon'ble ITAT's order but did not give effect to the order as the certificate of registration under section 12AA could not be produced before him by the appellant. Therefore, in absence of the same, he proceeded to treat the appellant as AOP and accordingly the excess of income over expenditure amounting to Rs.9,61,59,429/- was brought to tax. The appellant in the appeal proceedings has stated that the order of the Hon'ble ITAT was passed on 24.08.2017 was given effect to by the DIT(E), Bangalore, vide No.ITBA/COM/F/17/2020-21/1028835561(1), dt. 03.12.2020 and corrigendum order dt. 11.02.2021. I have gone through the aforementioned order of the DIT(E), Bangalore. It is seen that the said order grants registration under section 12AA to the trust w.e.f., the AY 2002-03. As the appellant has now obtained the certificate of registration u/s 12AA, it has become eligible for the benefit of exemption available section 11 of the I.T. Act, 1961. Accordingly, I direct the Ld AO to allow the benefit of exemption u/s 11 to the appellant and compute the total income of the appellant accordingly. The ground of the appellant is allowed.”*

5. The Revenue being aggrieved by the orders of the CIT(A) for assessment years 2016-2017 and 2017-2018, has filed these appeals before the Tribunal. The learned Departmental Representative relied on the grounds raised.

6. The learned AR filed a paper book comprising of 57 pages enclosing therein copy of the order of Hon'ble High Court of Karnataka in ITA No.24/2008 dated 07.12.2020, copy of the order of the ITAT in ITA No.591/Bang/2007 dated 24.08.2017, copy of the order of the Hon'ble Apex Court in

SLP 5437-5438/2012 dated 19.02.2020, copy of the order giving effect to the ITAT's order in ITA No.591/Bang/2007 dated 03.12.2020, granting registration u/s 12AA from assessment year 2002-2003 onwards, copy of the corrigendum to registration u/s 12AA of the I.T.Act dated 11.02.2021, etc. The learned AR relied on the findings of the CIT(A).

7. We have heard rival submissions and perused the material on record. The CIT(A) has directed the A.O. to grant benefit of exemption u/s 11 of the Act for the assessment years 2016-2017 and 2017-2018 based on the orders granted by the DIT (Exemption) (order dated 13.12.2020) and corrigendum order dated 11.02.2021). The registration u/s 12AA of the Act has been granted to the assessee with effect from assessment year 2002-2003 onwards. Since the assessee has obtained registration certificate u/s 12AA of the Act, it becomes eligible for benefit of exemption u/s 11 of the Act. Accordingly, we see no reason to interfere with the orders of the CIT(A) and dismiss the appeals filed by the Revenue.

8. In the result, the appeals filed by the Revenue are dismissed.

Order pronounced on this 23<sup>rd</sup> day of December, 2021.

**Sd/-**  
**(B.R.Baskaran)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(George George K)**  
**JUDICIAL MEMBER**

Bangalore; Dated : 23<sup>rd</sup> December, 2021.  
Devadas G\*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A), NFAC, Delhi
4. The Pr.CIT, Bengaluru.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore