

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
KOLKATA-PATNA 'E-COURT', KOLKATA  
[Virtual Court Hearing]**

**Before Shri Rajpal Yadav, Vice-President  
&  
Shri Rajesh Kumar, Accountant Member**

**I.T.A. No. 211/PAT/2018**

***Dawat E Islami Hind, Jharkhand,.....Appellant  
C/o. Masjid-E Kanzul,  
Iman Cross Road,  
No. 15D, Old Purulia Road,  
Zakirnagar (West),  
P.O. & P.S. Azadnagar Mango  
Jamshedpur, Dist. Singhbhum East,  
Jharkhand-832110  
[PAN: AACTD7550Q]***

***-Vs.-***

***Commissioner of Income Tax (Exemption), Patna.....Respondent  
2<sup>nd</sup> Floor, Central Revenue Building,  
Beerchand Patel Marg,  
Patna-800001***

**Appearances by:**

*N o n e, appeared on behalf of the assessee*

*Shri Sanjay Mukherjee, CIT(D.R.), appeared on behalf of the Revenue*

Date of concluding the hearing : February 15, 2022

Date of pronouncing the order : February 21<sup>st</sup> , 2022

**O R D E R**

**Per Shri Rajpal Yadav, Vice-President (KZ):-**

The assessee is in appeal before the Tribunal against the order of ld. Commissioner of Income Tax (Exemption), Patna dated 17.07.2018 passed under section 12AA(1)(b)(ii) of the Income Tax Act, 1961.

2. The solitary grievance of the assessee is that the ld. CIT(Exemption) has erred in rejecting the application of the assessee for grant of registration under section 12A(a) of the Income Tax Act, 1961. In response to the notice of hearing, none has appeared on behalf of the assessee. Therefore, with the assistance of ld. CIT(DR), we have gone through the record carefully and proceeded ex-parte qua the assessee.

3. Brief facts of the case are that the assessee has filed an application in Form No. 10A on 17.01.2018 for grant of registration under section 12A(a). This application of the assessee has been rejected by the Id. Commissioner. On perusal of the order suggests that Id. Commissioner treated the assessee-Trust as a Charitable Trust, whereas the case of the assessee is that it is a Religious Trust and its case ought to have been examined by keeping in mind its object as of Religious in nature. We find that the Id. Commissioner has committed an error by treating the assessee-Trust as a Charitable Trust and ignoring its status as Religious. The Id. Commissioner is required to examine the objectives and thereafter was required to decide whether the assessee is engaged in Religious work or not. We feel that Id. CIT was to conduct a proper enquiry in this connection as contemplated in section 12AA(1)(a). Under this section, Id. Commissioner shall call for documents or information from the assessee-Trust and thereafter would decide the genuineness of activities of the Trust/Institution and after satisfying himself about the objects of the Trust and the genuineness of its activities, he was required to pass an order in writing. The Id. Commissioner has not appreciated the controversy in right perspective keeping in mind the objects of the Trust and, therefore, his order is not sustainable. We, therefore, set aside the impugned order and remit back to the file of Id. Commissioner for re-adjudication. The Id. Commissioner shall provide due opportunity of hearing to the assessee before re-adjudicating its application for grant of registration under section 12AA.

**4. In view of the above, the appeal of the assessee is treated as allowed for statistical purposes.**

Order pronounced in the open Court on February 21, 2022.

**Sd/-**  
**(Rajesh Kumar)**  
**Accountant Member**

**Sd/-**  
**(Rajpal Yadav)**  
**Vice-President (KZ)**

***Kolkata, the 21<sup>st</sup> day of February, 2022***

- Copies to :
- (1) ***Dawat E Islami Hind, Jharkhand,  
C/o. Masjid-E Kanzul,  
Iman Cross Road,  
No. 15D, Old Purulia Road,  
Zakirnagar (West),  
P.O. & P.S. Azadnagar Mango  
Jamshedpur, Dist. Singhbhum East, Jharkhand-832110***
  - (2) ***Commissioner of Income Tax (Exemption), Patna.  
2<sup>nd</sup> Floor, Central Revenue Building,  
Beerchand Patel Marg, Patna-800001***
  - (3) *Commissioner of Income Tax (Exemption), Patna*
  - (4) *Commissioner of Income Tax ,*
  - (5) *The Departmental Representative*
  - (6) *Guard File*

TRUE COPY

By order

*Assistant Registrar  
Income Tax Appellate Tribunal,  
Kolkata Benches, Kolkata*

***Laha/Sr. P.S.***