

आयकर अपीलीय अधिकरण
पटना पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA BENCH AT KOLKATA**

[वर्चुअल कोर्ट]
[Virtual Court]

श्री जॉर्ज माथान, न्यायिक सदस्य
एवं
श्री राकेश मिश्रा, लेखा सदस्य
के समक्ष
Before

**SHRI GEORGE MATHAN, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No.: 670/PAT/2024
Assessment Year: 2024-25**

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| St. Johns Education Trust, Patna (Appellant) | Vs. | Income Tax Officer (Exemption), Ward 1, Patna (Respondent) |
| PAN: ABCTS4121R | | |

**I.T.A. No.: 671/PAT/2024
Assessment Year: 2024-25**

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|---|-----|---|
| St. Johns Society for Education, Hajipur (Appellant) | Vs. | Income Tax Officer (Exemption), Patna (Respondent) |
| PAN: AAETS5000N | | |

Appearances:

Assessee represented by : Sudeep Sinha, Adv.

Department represented by : Ashwani Kr. Singal, JCIT.

Date of concluding the hearing : April 3rd, 2025

Date of pronouncing the order : April 28th, 2025



ORDER

PER BENCH:

These appeals filed by the assesseees are against the orders of the Ld. Commissioner of Income Tax (Exemption)-Patna [hereinafter referred to as the 'Ld. CIT (Exemption)'] passed in respect of registration u/s 12A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2024-25 dated 25.09.2024. Since the issues are common, both the appeals were heard together and are being decided vide this common order for the sake of convenience and brevity

2. The assesseees are in appeal before the Tribunal raising the following grounds of appeal respectively:

I. I.T.A. No.: 670/PAT/2024; A.Y. 2024-25:

"1. For that the Ld. CIT(Exemption) has erred both in law and on facts and circumstances of the case and therefore, the impugned order of cancelling the registration u/s 12A may be annulled.

2. For that the Ld. CIT(Exemption) has erred in not allowing reasonable and sufficient time to the appellant to submit Its response to the show cause notice dated 14.09.2024 as the proceeding limitation date u/s 12AB was to expire on 30.09.2024.

3. For that before passing the impugned order, the Ld. CIT(Exemption) only considered the submission made by the appellant during the physical hearing conducted on 19.09.2024, with regards to the show cause notice dated 14.09.2024. However, Ld. CIT(Exemption) has completely ignored the electronic submission made by the appellant subsequent to the physical hearing on e-Proceeding page on 21.09.2024 after taking a leave to make such additional submission to clarify the doubts that were raised during the physical hearing. This is against the principles of natural justice and therefore, the impugned order, being passed after not affording reasonable opportunity of being heard to the appellant, may be annulled.

4. For that the Ld. CIT(Exemption) has hastily passed the impugned order without taking into account the complete submissions made by the



appellant, both physically and electronically, and therefore, the said order may be quashed.

5. For that to arrive to the conclusion that the activities of the trust or the institution are not genuine or are not being carried out in accordance with the objects of the trust or the institution, finding in this regard is necessary, based on the relevant material.

6. For that the Ld. CIT(Exemption) has failed to investigate all the relevant material that was put on record by the appellant. The online submission made by the appellant on e-Proceeding page of Income Tax Portal remain untouched as the mention of the same is missing from the impugned order.

7. For that the Ld. CIT (Exemption) in its final show cause notice questioned the nature and quantum of expenditures such as school rent, trustee and secretary remuneration and vehicle hire charges. These are incidental expenses to the running of school which is the main object of the Trust and the appellant had submitted the explanation along with various documents such as picture of the school building, bank statement highlighting payment of remuneration etc.

8. For that during the physical hearing, the A.R. of the appellant had mentioned that if vouchers corresponding to vehicle hire charges and school rent payment is required then the same can be submitted. Though the Ld. CIT (Exemption) did not ask for the same, such vouchers are indicative of the payment towards the said expenditure and therefore, these expenditures should not form basis for the denial of registration u/s 12A of the Act

9. For that the appellant runs a school in which only primary education is provided and therefore no affiliation certificate is available. The same had been communicated during the physical hearing conducted in the course of proceedings taken u/s 12AB.

10. For that the appellant, in its final response submitted online on e-Proceeding page on 21.09.2024, had stated that the Trust was established in FY 2021-22 and it took around a year to register under Right to Education act. Therefore, for the relevant FY 2022-23 no students were enrolled under RTE Act. However, there were few admissions under RTE Act in FY 2023 24 and the same was furnished. Therefore, compliance of other laws do not form basis for denial of registration u/s 12A of the Act.

11. For that the sum of Rs. 8,00,500/- was the amount receivable from St. Johns Academy in lieu of transport services provided by it to the students of the appellant's school. Such sum was not indicative of any activity that is



repugnant to the objects of the Trust and therefore, the same shall not form basis for denial of registration u/s 12A of the Act.

12. For that any other ground, if any, may be urged at the time of hearing.”

II. I.T.A. No.: 671/PAT/2024; A.Y. 2024-25:

“1. For that the Ld. CIT(Exemption) has erred both in law and on facts and circumstances of the case and therefore, the impugned order of cancelling the registration u/s 12A may be annulled.

2. For that the Ld. CIT(Exemption) has erred in not allowing reasonable and sufficient time to the appellant to submit its response to the show cause notice dated 14.09.2024 as the proceeding limitation date u/s 12AB was to expire on 30.09.2024.

3. For that before passing the impugned order, the Ld. CIT(Exemption) only considered the submission made by the appellant during the physical hearing conducted on 19.09.2024, with regards to the show cause notice dated 14.09.2024 However, Ld. CIT(Exemption) has completely ignored the electronic submission made by the appellant subsequent to the physical hearing on e-Proceeding page on 21.09.2024 after taking a leave to make such additional submission to clarify the doubts that were raised during the physical hearing. This is against the principles of natural justice and therefore, the impugned order, being passed after not affording reasonable opportunity of being heard to the appellant, may be annulled.

4. For that the Ld. CIT(Exemption) has hastily passed the impugned order without taking into account the complete submissions made by the appellant, both physically and electronically, and therefore, the said order may be quashed.

5. For that to arrive to the conclusion that the activities of the trust or the institution are not genuine or are not being carried out in accordance with the objects of the trust or the institution, finding in this regard is necessary, based on the relevant material.

6. For that the Ld. CIT(Exemption) has failed to investigate all the relevant material that was put on record by the appellant. The online submission made by the appellant on e-Proceeding page of Income Tax Portal remain untouched as the mention of the same is missing from the impugned order.

7. For that the Ld. CIT (Exemption) in its final show cause notice questioned the nature and quantum of expenditures such as school rent, land lease rent and vehicle interest. These are incidental expenses to the running of school



which is the main object of the Trust and the appellant had submitted the explanation along with various documents such as rent agreement, land lease rent and loan statement highlighting repayment of loan.

8. For that during the physical hearing, the A.R. of the appellant had mentioned that if vouchers corresponding to school rent payment is required then the same can be submitted. Though the Ld. CIT (Exemption) did not ask for the same, such vouchers are indicative of the payment towards the said expenditure and therefore, these expenditures should not form basis for the denial of registration u/s 12A of the Act.

9. For that the rent agreement submitted on e-Proceeding page corresponds to the school rent and the same was asked to be submitted during the physical hearing conducted on 19.09.2024. The rent receipts from land lord were not asked for and therefore, the same was not submitted.

10. For that the land lease rent evidenced that the land was taken on lease. The appellant Society do not own any land. The land lease rent of Rs.4,00,00 paid to the recipient had been subjected to income tax in his return by the recipient.

11. For that the balance sheet as on 31.03.2023 shows value of lease land of Rs. 1,10,84,000/- and school building construction of Rs. 2,49,33,985. Both corresponds to the value of building constructed on the land over the years and had been shown year on year which is evidenced by the audit report furnished for the past three years. Only the nomenclature is different but both the said values correspond to the value of constructed building which is owned by the Society. In support of the same, the appellant had submitted the sanctioned map, fire safety report and drinking water and sanitation certificate which is in the name of the appellant Society which evidences that he building is owned by the appellant Society.

12. For that the Society has been registered u/s 12A since 2004 and had been assessed as charitable for long time. The Ld. CIT (Exemption) has not found any merit in concluding that the activity of the appellant is not in line with the objects and therefore, the cancellation of registration u/s 12A is unjustified.

13. For that the appellant complies with other laws and had submitted the list of students admitted under the Right to Education Act in the online submission made on 21.09.2024 on e-Proceeding page. However, the same was not perused before passing the impugned order.

14. For that any other ground, if any, may be urged at the time of hearing.”



3. Rival contentions were heard and the submissions made have been examined. We will first take up the appeal in I.T.A. No.670/PAT/2024. Brief facts of the case are that the assessee is a trust and had applied for registration under section 12A of the Act. In response to the queries raised by the Ld. CIT(E), it made submission of documents during the course of physical hearing and filed another set of additional documents as were required online on the departmental portal and it is submitted that the additional set of documents filed as required by the Ld. CIT(E) were not considered while considering the application for registration of the trust and the application was rejected. The relevant extract from the order of the Ld. CIT(E) in this regard is as under:

4. In response to the letter dated 14.09.2024, the applicant submitted a copy of lease deed dated 15.05.2012 in respect of a land situated at daulatpur chandi for the monthly rent of Rs. 1000/-, in respect of this deed the lessor is Mr. Arthandathi Varkey Joseph and the lessee is the applicant. Another copy of deed of lease dated 01.07.2017 was also submitted in respect of land with structures standing on it which is situated at SDO Road, Hajipur. In respect of this deed the lessee is Mr. Arthandathi Varkey Joseph and there is a provision for payment of monthly rent of Rs. 180000/-, Therefore, the annual lease rent for land of Rs. 400000/- claimed to have been paid in the accounts do not agree with the facts slated above.

The applicant did not submit rent receipts issued by the land lord in respect of the school rent. The balance sheet as on 31.03.2023 shows value of lease land of Rs. 11084000/- but no explanation was given about the valuation of the leased land and its entries in the accounts considering the facts that no corresponding entry have been shown as liability for the lease obligation.

The applicant runs ST. Johns Academy, Daulatpur Chandi, Hajipur under it but did not furnish complete documentary evidences in support of the compliance of Right to Education Act.

5. Therefore, it is held that the applicant failed to prove the genuineness of its activities claimed to have been made in accordance with the objects which were wholly for charitable or religious purposes within the meaning of section 11 read



with section 2(15) of the IT Act 1961 and failed to prove the compliance of other laws. Therefore, the application filed in Form 10AB for grant of regular registration under sub clause (iii) of clause (ac) of sub-section (1) of section 12A is rejected.

6. Under the circumstances mentioned above, the provisional registration granted u/s 12A(1)(ac) (vi) in Form 10AC dated 27.05.2021 with Unique Registration Number- AAETS5000NE20206 for AY 2021-22 to2023-24 is also cancelled.

4. Along with the appeal memo, the assessee has also filed evidence of filing the requisite documents online, which documents have not been considered while considering the genuineness of activities of the trust. During the course of appeal, though the assessee sought adjournment, however, the Bench was of the view that the Ld. CIT (Exemption) had denied the claim of exemption u/s 12A of the Act on account of non-compliance by the assessee and the assessee claims on the other hand that the required documents were filed which have not been considered. Therefore, in the interest of justice, it was considered imperative that the assessee may be granted another opportunity to file its submission in response to the notice issued by the Ld. CIT (Exemption) for justifying the genuineness of the activities and claim of exemption. The Ld. Sr. DR supported the order of the Ld. CIT(E).

5. Similarly, in I.T.A. No.671/PAT/2024; A.Y. 2024-25, the approval was rejected as the requisite documents were not filed though there is evidence that the same were filed online and the assessee contends that the same have not been considered.

6. Rival submissions were heard and the record and the submissions made have been examined. Hence, both the orders of the Ld. CIT (Exemption) are liable to be set aside as both the assessee claim to



have enough evidence for the claim made for grant of registration which was not considered by the Ld. CIT(E). The orders of the Ld. CIT(E) are, therefore, set-aside and the matter is remanded to him for deciding both the applications afresh after granting an opportunity of being heard to the assesseees and seeking the reply from them in respect of the queries raised and considering the documents already filed online in response to the queries raised by him earlier and thereafter decide the applications in accordance with law. The assesseees shall be at liberty to file all requisite evidence in support of their claim of registration. Needless to say, the assesseees shall not seek unnecessary adjournments and shall be at liberty to file all required documents in support of their claim of genuineness of activities of the trust in both the cases.

5. In the result, both the appeals filed by the assesseees are partly allowed for statistical purposes.

Order pronounced in the open Court on 28th April, 2025.

Sd/-

[George Mathan]

Judicial Member

Sd/-

[Rakesh Mishra]

Accountant Member

Dated: 28.04.2025

Bidhan (P.S.)



Copy of the order forwarded to:

- 1. St. Johns Education Trust, 202, Holy Ganga Enclave, Digha, Patna, Bihar, 800012.**
- 2. St. Johns Society for Education, S.D.O. Road, Hajipur, Bihar, 844101.**
- 3. Income Tax Officer (Exemption), Patna.**
4. CIT(A)-
5. CIT-
6. CIT(DR), Patna Bench, Patna.
7. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata