

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM BENCH, VISAKHAPATNAM**

**श्री वी. दुर्गा राव, न्यायिक सदस्य एवं
श्री डि.एस. सुन्दर सिंह, लेखा सदस्य के समक्ष**

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER &
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER**

**आयकर अपील सं./I.T.A.No.04/Viz/2016
(निर्धारण वर्ष/Assessment Year:2015-16)**

True Hope Missions Trusts
Plot No.48 C.B.Colony
Contonment
Vizianagaram

Vs. CIT (Exemptions)
Hyderabad

[PAN :AACTT1261G]

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri G.V.N.Hari, AR

प्रत्यर्थी की ओर से / Respondent by

: Shri T.S.N.Murthy, DR

सुनवाई की तारीख / Date of Hearing

: 10.04.2018

घोषणा की तारीख/Date of Pronouncement

: 18 .04.2018

आदेश / O R D E R

PER V.DURGA RAO, Judicial Member:

This appeal is filed against the order of the Commissioner of Income Tax (Exemptions) vide F.No.CIT(E)/158(3)/12A/2014-15 dated 24.09.15 for the assessment year 2015-16.

2. There is a delay of 38 days in filing of this appeal. The assessee has filed an affidavit along with Doctor certificate and explained the reasons for the delay as under :

"In this connection it is hereby most respectfully submitted that the Petitioner Trust consists of two trustees only viz., Mr Paul Jayaraj Varigeti and Mr. Anand Mohan Varigeti out of them Mr.Paul Jayarajj Vaiigeti is only looking after the trust affairs and activities and the other trustee is not much concentrating due to his constant and continuous tours. Mr.Paul Jayaraj Varigeti the under signed is aged about 70 years and at the relevant time he suffered from back ache. So he was advised by doctor to take bed rest and not to move from his bed room except for nature calls for 40 days. There was no other person to assist Mr.Paul Jayaraj Varigeti and hence he could not entrust the matters to any other person. A doctor's certificate in support of ill health of Mr.Paul Jayaraj Varigeti the under signed, is hereby enclosed for your kind consideration. However as soon as Mr.Paul Jayraj Vrigeti felt a bit better condition he immediately jumped into action and got the appeal papers prepared and filed the same before your honours. So it can be appreciated that the delay in filing appeal was not at all intentional or willful and it occurred under the unavoidable and exceptional circumstances beyond the control of the trustees."

We have heard both the parties and find that there is a sufficient cause for non filing of the appeal in time, therefore, the delay has to be condoned. Accordingly, the delay is condoned.

3. So far as merits of the case are concerned, the assessee is a society filed an application in Form No.10A on 02.03.2015 seeking registration u/s 12AA of the I.T.Act, 1961. The Commissioner rejected the registration on the ground that the objects are not clear, no charitable objects and the application filed by the assessee was rejected.

4. On appeal before us, the Ld.Counsel for the assessee has submitted that the Commissioner without considering the main objects of the assessee society rejected the registration sought u/s 12AA and submitted that the objects may be considered and the registration u/s 12AA may be granted.

5. The Ld.DR relied on the order passed by the Commissioner.

6. We have heard both the sides, perused the records. The assessee is a society filed an application in Form No.10A before the Ld.Commissioner of Income Tax (Exemptions) seeking registration u/s 12AA of I.T.Act, 1961 with the following objects.

a. Educational

Try to run, maintain or assist any educational or other institution for coaching, guidance, counseling or vocational training or to grant Individual scholarships for poor, deserving and needy students for elementary and higher education.

b. Medical

Try to run, maintain or assist any medical institution, nursing home or clinics or to grant assistance to needy and indigent persons for meeting the cost of medical treatment.

c. Relief of the poor

Try to give financial or other assistance in kind by way of distribution of books, notebooks, cloths, uniforms, or meals for the poor and indigent and to the per persons suffering due to natural calamities;

d. Other objects of general public utility

i. Try to create / promote inter religious awareness among all sectors of people.

ii. Try to assist in creating better environmental facilities

iii. Try to acquire property for the sole use for public good by making it available for public purposes as for example, housing a library clinic, crèche and / or as a community hall to be available for public use as training classes, seminars, discourses and other public functions for benefit Of the community in general

iv. Try to undertake any other activity incidental to the above activities but which are not inconsistent with the above objects.

PROVIDED the Trust my assist / donate the other TRUST to carry out the various objects mentioned n the objects clause in such manner and to the extent the Trustees may decide upon from time to time.

5. FUNDS

The Trustees may accept donations, grants, subscriptions, aids or contributions from any person, Government, Local authorities or any other charitable institutions, in cash or in kind including immovable property without any encumbrance, but the Trustees shall not accept any receipt with any condition or terms inconsistent with the objects of the Trusts. While applying such receipts to the objects, the Trustees shall respect the directions, if any, by the granter. Any receipt with specific direction to treat the same as part of the corpus of the Trust or separate fund shall be funded accordingly."

6.1. From the above it is very clear that the assessee's main objects are educational, medical, relief to the poor, the Commissioner without considering the main objects rejected 12AA by considering supplementary objects. In our opinion, the order passed by the Ld.Commissioner of Income Tax (Exemptions) is not correct. Therefore, we set aside the order passed by the Ld. Commissioner(Exemptions) and remit the matter back to the file of the Commissioner and direct the Commissioner to consider all objects of the society and pass orders in accordance with law.

7. In the result, appeal filed by the assessee is allowed for statistical purpose.

The above order was pronounced in the open court on 18th Apr, 2018.

Sd/-

Sd/-

(डि.एस. सुन्दर सिंह)

(वी.दुर्गा राव)

(D.S. SUNDER SINGH) (V. DURGA RAO)

लेखासदस्य/ACCOUNTANT MEMBER न्यायिक सदस्य/JUDICIAL MEMBER

विशाखापटणम /Visakhapatnam

दिनांक /Dated : 18.04.2018

L.Rama, SPS

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:-

1. अपीलार्थी / The Appellant- True Hope Missions Trusts, Plot No.48, C.B.Colony, Contonment, Vizianagaram - 535003
2. प्रत्यार्थी / The Respondent- CIT (Exemptions), Hyderabad
3. The ITO(Exemptions), Ward, Visakhapatnam
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR, ITAT, Visakhapatnam
- 6.गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

// True Copy //

Sr. Private Secretary
ITAT, VISAKHAPATNAM