

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

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

**ITA No. 38/VIZ/2016
(Asst. Year : 2015-16)**

M/s. Sri Venkateswara Vidya vs. CIT(Exemptions),
Peeth, C/o Samuel Nagadesi, Hyderabad.
CA, 408, Sri Ramakrishna
Towers, Beside Image Hospital,
Nagarjuna Nagar, Ameerpet,
Hyderabad, Telangana.

PAN No. AAETS 8295 F (Appellant) (Respondent)

Assessee by : Shri Samuel Nagadesi, FCA.
Department By : Shri Deba Kumar Sonawal, CIT DR

Date of hearing : 10/09/2018.
Date of pronouncement : 12/09/2018.

ORDER

PER V. DURGA RAO, JUDICIAL MEMBER

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Exemptions), Hyderabad, dated 20/10/2015 for the Assessment Year 2015-16.

2. There is a delay of 34 days in filing of this appeal. The assessee has filed an affidavit wherein he explained the reasons for delay. We find that there is a sufficient cause to condone the delay. Accordingly, delay is condoned.

3. So far as merits of the case is concerned, the assessee has filed an application in Form No. 10A for registration under section 12A(1)(aa) of the Income Tax Act, 1961 (hereinafter referred to as 'Act') on 30/04/2015. The Id. Commissioner has granted the registration by order dated 20/10/2015 from the date of filing of application i.e. 30/04/2015.

4. On appeal before us, Id. Authorized Representative for the assessee has submitted that assessee has already having a registration from 1978 onwards and he has pointed out from the paper book at page No.37, the Revenue has renewed 80G to the assessee for the period of 01/09/1979 to 31/03/1982 which shows that the assessee is having 12A registration of the I.T. Act. Though, there is no 12A order with the assessee, by considering the renewal order passed under section 80G, registration under section 12A may be granted with retrospective effect.

5. On the other hand, Id. Departmental Representative supported the order passed by the Id. Commissioner.

6. We have heard both the sides, perused the material available on record and orders of the authorities below.

7. The assessee is a registered society carrying on educational activities, filed an application in Form No. 10A for grant of registration under section 12A of the Act. The Id. Commissioner

has granted 12A registration from the date of filing of application i.e. 30/04/2015 by order dated 20/10/2015. The case of the assessee before us is that Id. Commissioner ought to have been considered 12A registration with retrospective effect. For that, he pointed out at page No. 37 of the paper book, wherein assessee made an application to the Id. Commissioner, Visakhapatnam claiming renewal under section 80G for the period 01/09/1979 to 31/03/1982 and by order dated NIL, the Id. Commissioner has granted renewal of 80G to the assessee. It is also submitted by the Authorized Representative for the assessee that unless 12A registration is granted to the assessee, no 80G renewal will be granted. Therefore, the assessee is already having 12A registration and was not able to produce certificate because it is not available with the assessee. By considering the renewal application dated 22/12/1980, his case has to be considered with retrospectively. The assessee has only filed a xerox copy of the renewal of 80G before us for the period 01/09/1979 to 31/03/1982, but no details are filed in respect of subsequent years and this fact is not considered by the Id. Commissioner while granting 12A registration to the assessee by order dated 20/10/2015. We find that there is a merit in the argument of the assessee, however, we are of the opinion that the renewal

application dated 22/12/1980, 80G is granted from 01/09/1979 to 31/03/1982. It is not clear what happened subsequently with regard to 80G. The assessee is also not in a position to produce copy of 12A registration. Under these facts and circumstances of the case, we are of the opinion that all the details are needed to be verified / examined. Accordingly, we set aside the order passed by the Id. Commissioner for the limited purpose i.e. only to examine whether assessee is eligible for 12A retrospectively based on his renewal application dated 22/12/1980 and is directed to decide the issue *denovo* in accordance with law.

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

Order Pronounced in open Court on this 12th day of Sep., 2018.

Sd/-
(D.S. SUNDER SINGH)
Accountant Member

sd/-
(V. DURGA RAO)
Judicial Member

Dated : 12th Sep., 2018.

vr/-

Copy to:

1. *The Assessee - M/s. Sri Venkateswara Vidya Peeth, C/o Samuel Nagadesi, CA, 408, Sri Ramakrishna Towers, Beside Image Hospital, Nagarjuna Nagar, Ameerpet, Hyderabad.*
2. *The Revenue - CIT(Exemptions), Hyderabad.*
3. *The D.R., Visakhapatnam.*
4. *Guard file.*

By order

(VUKKEM RAMBABU)
Sr. Private Secretary,
ITAT, Visakhapatnam.