

**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. 236/VIZ/2019

M/s. Bala Bata Society,
H.No. 40-15/2-19/4,
Flat No. TF-3, Mahalakshmi
Apartments, Brindavan
Colony, Vijayawada.

vs. ITO (Exemptions),
Rajahmundry.

PAN No. AACAB 4830 C
(Appellant)

(Respondent)

Assessee by : Shri G.V.N. Hari – Advocate.
Department By : Shri D.K. Sonawal – CIT DR

Date of hearing : 05/08/2019.
Date of pronouncement : 07/08/2019.

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 28/03/2019, whereby registration u/sec. 12AA is rejected.

2. Facts of the case, in brief, are that assessee is a society, filed an application in Form No. 10A for seeking registration u/sec. 12AA of the Act on 29/09/2018 with the following objects:-

- "1. Try to develop friendship and cooperation in between the Society Members.
2. Try to establishment of a library for development of

- knowledge of the Society Members.*
3. *Rural area people of uneducated have to be educated.*
 4. *Try to develop the financial position of the women by giving training in stitching, Embroidery, making agarbithis and candles in the village.*
 5. *To arrange high programme in preparation of leather goods kalankary, bags and Drying arid try to provide loans through banks to the trainees.*
 6. *To add practice centers and education centers in the plan and research programme.*
 7. *To provide medical and nutrition food through mobile medical team to the physically handicapped and children, welfare institutions.*
 8. *To start nutrition food programme to provide to the children, pregnancy Women and childhood.*
 9. *Making awareness in youth and ladies try for providing education, cultural programmes and games at village levels.*
 10. *Development of trees by tree Plantation for development of environmental.*
 11. *To provide development programmes at rural areas and try to development of the persons of urban area people.*
 12. *Try to develop the poor people through the schemes introduced by the Govt. Quasi Govt. Local associations.*
 13. *To encourage the people in development of social frosty and irrigation and help them in making successful.*
 14. *To provide shelter to the physically handicapped persons and try in providing of programmes for improvement of their disability.*
 15. *Any other views desired by the Society.*
 16. *Irrespective of Caste and Nationality all the poor people to provide clothes, books, food and medical aid as and when they are in need mainly to the leprosy and slum area persons.*
 17. *To establish technical institutions, learning centres, Engineering Colleges, Polytechnic Colleges, Computer Centers and make awareness to the public through libraries and reading rooms.*
 18. *To see that the welfare measures of the Society to be provided to all the persons irrespective of Caste and Nationality.*
 19. *The Society should not function with a profit manner."*

3. Ld.CIT(E) by order dated 28/03/2019, rejected the application filed by the assessee on the ground that the assessee has claimed exemption u/sec. 11 for the A.Y. 2015-16 where the assessee-trust has excess income over the expenditure of Rs.1,64,36,192/-, even in the A.Y. 2016-17 also, the assessee is having income over the expenditure of Rs. 71,67,137/- and accordingly he came to a conclusion that the assessee claimed exemption for which it is not entitled and the assessee has not given any explanation, therefore, he is of the opinion that the registration u/sec. 12AA cannot be granted. He also observed that assessee claimed exemption u/sec. 11 for which he is not entitled and is offence u/sec. 276C of the Act.

4. On being aggrieved, assessee carried the matter in appeal before this Tribunal.

5. Ld. counsel for the assessee has submitted that exemption claimed by the assessee in the earlier years cannot be a ground for rejection u/sec. 12A of the Act and submitted that Id. CIT(E) has to examine the objects of the assessee and thereafter, he is the discretion to grant or not to grant registration in accordance with law and submitted that without examining the objects, simply rejected the registration u/sec. 12A of the Act and submitted that registration may be granted.

6. On the other hand, Id.DR strongly supported the order of the Id. CIT (E).

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

8. We have gone through the objects of the assessee-society and find that there are so many objects. We find from the object No.14 that it provides shelter to the physically handicapped persons and providing of programmes for improvements of their disability. If the assessee-society is genuinely carrying the charitable activities based on the objects of it, registration u/sec. 12A has to be granted. For that, the Id. CIT (E) has to examine the objects of the society and if at all is having any doubt about the genuineness of the activities carried by the assessee-society, it is open to the Id. CIT (E) to depute the Inspector of Income-tax or any other person to examine the premises and make necessary enquiries and after receiving the enquiry report, Id. CIT (E) has to exercise his discretion based on the material available on record whether to grant or not to grant. In this case, Id. CIT (E) simply rejected 12A registration on the ground that assessee has claimed exemption u/sec. 11 without there being a 12A registration. In our opinion, the order passed by the Id. CIT (E) is not correct. Therefore, we set aside the order of the Id. CIT (E) and direct him

to examine the entire case of the assessee with reference to the objects and decide in *denovo*, if necessary after making the necessary enquiries as indicated above. Accordingly, this appeal filed by the assessee is allowed for statistical purpose.

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

Order Pronounced in open Court on this 07th day of August, 2019.

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

sd/-
(V. DURGA RAO)
Judicial Member

Dated: 07th August, 2019.

vr/-

Copy to:

1. *The Assessee – M/s. Bala Bata Society, H.No. 40-15/2-19/4, Flat No. TF-3, Mahalakshmi Apartments, Brindavan Colony, Vijayawada.*
2. *The Revenue – ITO (Exemptions), Rajahmundry.*
3. *The CIT (Exemptions), Hyderabad.*
4. *The D.R., Visakhapatnam.*
5. *Guard file.*

By order

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