

आयकरअपीलीयअधिकरण, विशाखापटणम पीठ, विशाखापटणम

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

**श्री दुव्वूरु आर एल रेड्डी, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER &
SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER**

**आयकर अपील सं./I.T.A.No.617/Viz/2019 & 618/Viz/2019
(निर्धारण वर्ष / Assessment Year : 2019-20)**

Vizianagaram Rotary Parvati Devi
Anchalia Voluntary Blood Bank Trust
C/o Balaji Associates
19-6-1/3, AG Road
Vizianagaram
[PAN : AACTV7569D]

Vs. Commissioner of Income Tax
(Exemptions)
Hyderabad

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से / Respondent by

: Shri G.V.N.Hari, AR
: Shri M.N.Murthy Naik,
CIT(DR)

सुनवाई की तारीख / Date of Hearing

: 31.01.2023

घोषणा की तारीख/Date of Pronouncement

: 16 .02.2023

आदेश /O R D E R

Per Shri Duvvuru RL Reddy, Judicial Member :

These appeals are filed by the assessee against the order of Commissioner of Income Tax (Exemptions) [CIT(E)], Hyderabad in F.No.CIT(E)/Hyd/227(03)/12A&80G/2018-19 dated 26.09.2019. Since the grounds raised in these appeals are identical, these appeals are clubbed, heard together and a common order is being passed for the sake of convenience as under. Facts are extracted from I.T.A. 617/Viz/2019.

2. Brief facts of the case are that the assessee filed an application before the Ld.CIT(E) in Form No.10G seeking approval u/s 80G of the Income Tax Act, 1961 (in short 'Act') on 30.03.2019. The Ld.CIT(E) issued a notice dated 14.08.2019 to the assessee to appear and produce its original Memorandum of Association (MoA) / Trust Deed for verification and to furnish a detailed reply on specific points. The Managing Trustee appeared before the Ld.CIT(E) and submitted that the assessee is in the process of setting up of blood bank, and applied to the competent authority for approval. Relying on the decision of Hon'ble ITAT, Cochin in the case of Progressive Educational & Charitable Trust Vs. CIT in ITA No.447/Coch/2014, the Ld.CIT(E) dismissed the appeal of the assessee as there is no charitable activity carried out by the assessee for grant of approval u/s 80G of the Act and rejected the application in Form No.10G. The Ld.CIT(E) also rejected the assessee's application for registration u/s 12A which is mandatory for granting approval u/s 80G.

3. On being aggrieved, the assessee preferred an appeal before the Tribunal and raised the following grounds :

1. *The Learned Commissioner of Income Tax (Exemptions) ought not to have rejected the application under Form 10G for exemption u/s 80G of the Act in the facts and circumstances of the case.*

2. *The Learned CIT(E) ought to have seen that the appellant is in fact carrying on charitable activities as per the objects of the Trust.*

3. *The Learned CIT(E)'s conclusions regarding the assessee are totally erroneous and in complete contradiction to the facts and evidence placed before him, which facts and evidence the Learned CIT(E) does not dispute.*

4. *The Learned CIT(E) ought not to have relied on the judgement in ITA No.447/Coch/2014, as the facts, evidence and circumstances of the assessee's case are clearly distinguishable from that case.*

5. *For these and any other grounds that may be urged at the time of hearing the assessee prays for the Hon'ble Bench to direct the Learned CIT(E) to grant registration u/s 80G to the assessee trust.*

6. *The appellant craves, leave to add, alter, amend or delete any of the grounds.*

4. It was the submission of the assessee that the Ld.CIT(E) has not granted 12A registration since the assessee has not started its charitable activity. He further submitted that the assessee with a view to run blood bank, the assessee has completed the construction of the blood bank and applied for the license, but the license was not granted as there is no laboratory established for the purpose of running a blood bank. The Ld.CIT(E) without considering the objects of the assessee society denied registration u/s 12A. Hence, pleaded for grant of registration u/s 12A.

5. On the other hand, the Ld.DR submitted that there is no evidence that the assessee society is carrying out any charitable activity as prescribed in the application, though the license was granted on 13.12.2019. Therefore, the Ld.CIT(E) has rightly denied the registration u/s 12A.

6. We have heard both the parties and perused the material available on record. There is no dispute that running a blood bank is a charitable activity. But the only grievance of the revenue is that the assessee has not started the activity on the date of filing of the application. On this aspect, the contention of the assessee is that without constructing the laboratory, it is difficult to run blood bank. Further contention of the assessee is that on 13.12.2019, the license was granted and immediately the assessee started its charitable activity. After considering the arguments of the assessee as well as the revenue, we are of the firm view that without laboratory it is difficult to run a blood bank. There is no proof to establish that the assessee has been running a blood bank after issuance of license by the competent authorities. Therefore, we remit the matter back to the file of the CIT(E) to examine and grant 12A registration from the date of application, if the assessee is carrying the charitable activity from

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13.12.2019, otherwise, the assessee is not entitled for grant of registration u/s 12A.

7. In the result, the appeals of the assessee are allowed for statistical purpose.

Order pronounced in the open court on 16th February, 2023.

Sd/-

Sd/-

(एस बालाकृष्णन)

(S.BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER न्यायिक सदस्य/JUDICIAL MEMBER

Dated :16 .02.2023

L.Rama, SPS

(दुव्वूरु आर.एल रेड्डी)

(DUVVURU RL REDDY)

लेखा सदस्य/ACCOUNTANT MEMBER न्यायिक सदस्य/JUDICIAL MEMBER

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

1. निर्धारिती/ The Assessee- Vizianagaram Rotary Parvati Devi Anchalia Voluntary Blood Bank Trust, C/o Balaji Associates, 19-6-1/3, AG Road Vizianagaram
2. राजस्व/The Revenue – Commissioner of Income Tax (Exemptions), 2nd Floor, Ayakar Bhavan, Basheerbagh, Hyderabad
3. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम / DR,ITAT, Visakhapatnam
- 4..गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam