

**आयकरअपीलीयअधिकरण, विशाखापटणम पीठ, विशाखापटणम**

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

**श्री दुव्वूरु आर एल रेड्डी, न्यायिक सदस्य एवं श्री एस बाला कृष्णन, 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.101/Viz/2024 & 102/Viz/2024  
(निर्धारण वर्ष / Assessment Year :-NA-)**

VGR Diabetes Education and  
Awareness Charitable Trust  
D.No.40-5-19/18B

VGR Diabetes Specialities Hospital  
A S Ramarao Road  
Mogalrajpuram, Vijayawada  
[PAN : AABTV8428J]

Vs. Income Tax Officer  
(Exemption Ward)  
Rajahmundry

**(अपीलार्थी/ Appellant)**

**(प्रत्यर्थी/ Respondent)**

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

: Shri G.V.N.Hari, AR  
: Dr.Satyasai Rath, CIT(DR)

सुनवाई की तारीख / Date of Hearing

: 03.06.2024

घोषणा की तारीख/Date of Pronouncement

: 13.06.2024

**आदेश /O R D E R**

**Per Shri Duvvuru RL Reddy, Judicial Member :**

These appeals are filed by the assessee against the orders of Commissioner of Income Tax (Exemption) [CIT(E)], Hyderabad, vide DIN & Letter No.ITBA/COM/F/17/2023-24/1062047548(1) dated 05.03.2024 and ITBA/EXM/F/EXM45/2023-24/1061471856(1) dated 25.02.2024. 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.101/Viz/2024.

2. Brief facts of the case are that the assessee had filed e-application in Form No.10AB seeking registration u/s 80G of the Income Tax Act, 1961(in short "Act"). Notice dated 28.10.2023 was issued in respect of proceedings u/s 80G(5)(iii) to the address mentioned in the Form 10AB, to produce the copy of Memorandum of Association / Trust deed for verification and to furnish a detailed reply on the specific information called for in the said notice. The assessee has submitted the information and it is observed from the submissions made by the assessee, that CPC has issued the Form 10AC on 09.07.2021 by granting the provisional registration 12-Clause(iv) of first proviso to sub-section (5) of section 80G of Income Tax Act, 1961 for a period of three years commencing from A.Y.2021-22 to A.Y.2023-24, though the assessee was holding 80G registration issued by the department on 10.05.2016. The assessee has opted wrong section code while applying the Form No.10A by selecting the section 80G5(iv) instead of 80G(5)(i). A show cause notice dated 01.02.2024 was issued regarding proposal for rejection of Form No.10AB as infructuous.. The assessee submitted it's reply stating that they had

applied Form 10G, selecting the wrong section due to misunderstanding of the provisions and held that the application utility also had not shown any validation errors so that they could file revised application in Form 10G and they were issued provisional registration instead of giving any notice of wrong section. The Ld.CIT(E) considered the application for registration in Form 10AB and after considering the facts, treated the application filed by the assessee in Form No.10AB seeking registration u/s 80G as infructuous and rejected as non-maintainable.

3. Aggrieved by the order of the Ld.CIT(E), the assessee preferred an appeal before the Tribunal by raising the following grounds of appeal :

*1. The order of the learned Commissioner of Income Tax (Exemption), Hyderabad is contrary to the facts and also the law applicable to the facts of the case.*

*2. The learned Commissioner of Income Tax (Exemption) is not justified in rejecting the application filed by appellant in Form No.10AB for Registration u/s 80G of the Act.*

*3. Any other ground that may be urged at the time of appeal hearing.*

4. At the outset, inviting our attention para 4.1 of CBDT Circular No.7/2024 dated 25.04.2024 the Ld.AR submitted that where any trust, institution or fund has already made an application in Form No.10AB and where the Principal Commissioner or Commissioner has passed an order rejecting such application on or before the issuance of this Circular, solely

on account of the fact that the application was furnished after the due date or that the application has been furnished under the wrong section code, it may furnish a fresh application in Form No.10AB within the extended time provided in paragraph 3(ii) i.e. 30.06.2024. The Ld.AR, therefore, submitted that since the order of the Ld.CIT(E) was passed on 05.03.2024, rejecting the application filed by the assessee for opting wrong section while applying the Form No.10A, before issuance of CBDT Circular dated 25.04.2024 the assessee is eligible to furnish fresh application in Form No.10AB within the extended time limit i.e. 30.06.2024 and accordingly furnished a fresh application before the Ld.CIT(E). The Ld.AR further submitted that since the assessee has already filed a fresh application before the Ld.CIT(E), he pleaded to remit the matter back to the Ld.CIT(E) for fresh consideration for which the Ld.DR has not raised any objection.

5. We have heard both the parties and perused the material available on record. In view of the foregoing facts and circumstances of the case, we are inclined to remit the matter back to the file of the Ld.CIT(E) with a direction to examine the application filed by the assessee *denovo* and pass order accordingly.

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

Order pronounced in the open court on 13<sup>th</sup> June, 2024.

Sd/- (एस बाला कृष्णन) <b>(S.BALAKRISHNAN)</b> लेखा सदस्य/ACCOUNTANT MEMBER	Sd/- (दुव्वूरु आर.एल रेड्डी) <b>(DUVVURU RL REDDY)</b> न्यायिक सदस्य/JUDICIAL MEMBER
Dated : 13.06.2024	
L.Rama, SPS	

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

1. निर्धारिती/ The Assessee- VGR Diabetes Education and Awareness Charitable Trust, D.No.40-5-19/18B, VGR Diabetes Specialities Hospital, A S Ramarao Road, Mogalrajpuram, Vijayawada
2. राजस्व/The Revenue - The Income Tax Officer (Exemption Ward), Rajahmundry
3. The Principal Commissioner of Income Tax, Rajahmundry
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम / DR,ITAT, Visakhapatnam
- 5..गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam