

**आयकर अपीलीय अधिकरण, 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.128/Viz/2024

(निर्धारण वर्ष/ Assessment Year : 2020-21)

Arogyavaram Eye Hospital and  
Contact Lens Clinic Society,  
Srikakulam, Andhra Pradesh.  
PAN: AAATA9049H

(अपीलार्थी/ Appellant)

अपीलार्थीकीओरसे/ Assessee by

प्रत्यार्थीकीओरसे/ Revenue by

सुनवाईकीतारीख/ Date of Hearing

घोषणाकीतारीख/Date of

Pronouncement

Vs. Income Tax Officer  
(Exemption Ward),  
Visakhapatnam.

(प्रत्यर्थी/ Respondent)

Sri GVN Hari, AR

Dr.Satyasai Rath, CIT-DR

11/06/2024

24/07/2024

**O R D E R**

**PERS. BALAKRISHNAN, Accountant Member :**

This appeal filed by the assessee is against the order of the Learned Commissioner of Income Tax (Appeals)-1, Chandigarh [“Ld. CIT(A)”] vide Din & Order No. ITBA/APL/S/250/2023-24/1060299790(1), dated 31/01/2024 arising out of the order passed U/s. 143(1) of the Income Tax Act, 1961 [“the Act”] for the AY 2020-21.

2. Briefly stated the facts of the case are that the assessee filed the original return of income on 30/12/2020 admitting NIL income after claiming exemption of Rs. 4,94,57,908/- U/s. 11 of the Act. The assessee is a Charitable Hospital having registration U/s. 12A of the Act. Subsequently, the return was processed U/s. 143(1) of the Act on 24/12/2021 by denying the exemption of Rs. 4,94,57,908/- claimed by the assessee, as the return of income was erroneously filed without mentioning "Audit Details" in ITR-7. Aggrieved by the denial of exemption U/s. 11 of the Act, the assessee preferred an appeal before the Ld. CIT(A). Subsequently, the assessee filed its revised return of income mentioning "Audit Details" in ITR-7 on 28/03/2022 by claiming exemption of Rs. 4,94,57,908/- U/s. 11 of the Act. The revised return was processed U/s. 143(1) of the Act on 26/08/2022 by allowing the exemption of Rs. 4,94,57,908/- claimed by the assessee. The assessee thereafter also communicated to the Ld. CIT(A), withdrawing the appeal. The Ld. CIT(A) confirmed the disallowance of exemption by the CPC, without considering the communication by the assessee. Aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before the Tribunal by raising the following grounds of appeal:

- “1. *The order of the Ld. CIT(A) is contrary to the facts and also the law applicable to the facts of the case.*
2. *The Ld. CIT (A) is not justified in dismissing the appeal without considering the request letter filed by the appellant for withdrawal of appeal.*
3. *The Ld. CIT(A) ought to have appreciated that the appellant filed Form No. 10B in time and hence there was no reason for disallowance of exemption.*
4. *Any other ground that may be urged at the time of appeal hearing.”*

3. At the outset, the Ld. AR submitted that the assessee has filed a revised return of income on 28/03/2022 by claiming exemption U/s. 11 of the Act for Rs. 4,94,57,908/-. The Ld. AR admitted that while filing the original return of income on 30/12/2020, the assessee has inadvertently mentioned the audit details as “NO”. However, the Ld. AR submitted that the Audit Report in Form-10B was uploaded on 30/12/2020 itself. The Ld. AR referred to page 60 of the paper book wherein the uploaded Form-10B is enclosed for reference. The Ld. AR further submitted that revised return of income was filed on 28/03/2022 stating the particulars of audit details. Subsequently, the CPC processed the revised return of income by allowing exemption U/s. 11 of the Act. Thereafter, the Ld. AR submitted that a mail was sent to the Ld. CIT(A) for withdrawing the appeal. However, the Ld. CIT(A) has not considered the mail and proceeded to adjudicate the appeal and thereby dismissed the appeal.

Per contra, the Ld. Departmental Representative [“Ld. DR”] did not controvert the submissions made by the Ld. AR.

4. We have heard both the sides and perused the material available on record as well as the orders of the Ld. Revenue Authorities. Admittedly, the assessee has wrongly filed the original return of income without disclosing the audit details in ITR-7, dated 30/12/2020. However, the assessee has filed a revised return of income on 28/03/2022 disclosing the audit details. It was also demonstrated by the Ld. AR that the Audit Report in Form-10B has been duly filed on 30/12/2020. The CPC while processing the revised return of income has considered the filing of Audit Report in Form-10B and has granted refund of Rs. 1,62,750/- by allowing the exemption U/s. 11 of the Act. Giving these facts and circumstances, the assessee has sent a mail on January, 2024 to the Ld. CIT(A) citing the withdrawal of the appeal filed before him. However, the Ld. CIT(A) has not considered the assessee's request of withdrawal of appeal and has proceeded to adjudicate the appeal *ex-parte* vide order dated 31/01/2024. Under these circumstances, we find it deem fit to remit the matter back to the file of the Ld. CIT(A) directing him to consider the plea of the assessee to withdraw the appeal and

pass appropriate order, as the revised return of income has already been considered and processed by the CPC. We therefore allow the grounds of appeal raised by the assessee for statistical purposes.

5. In the result, appeal of the assessee is allowed for statistical purposes as indicated herein above.

Pronounced in the open Court on 24<sup>th</sup> July, 2024.

Sd/-  
(दुव्वरुआर. एलरेडडी)  
(DUVVURU RL REDDY)  
न्यायिकसदस्य/JUDICIAL MEMBER

Sd/-  
(एसबालाकृष्णन)  
(S.BALAKRISHNAN)  
लेखासदस्य/ACCOUNTANT MEMBER

Dated :24.07.2024  
OKK - SPS

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

1. निर्धारिती/ The Assessee–Arogyavaram Eye Hospital and Contact Lens Clinic Society, 1, Sompeta, Srikakulam District, Andhra Pradesh – 532284.
2. राजस्व/The Revenue –Income Tax Officer (Exemption Ward), O/o. ITO, Infinity Tower, Shankaramatham Road, Santhipuram, Visakhapatnam, Andhra Pradesh – 530016.
3. The Principal Commissioner of Income Tax,
4. आयकरआयुक्त (अपील)/ The Commissioner of Income Tax
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम/ DR,ITAT, Visakhapatnam
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam