

**आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम**

**IN THE INCOME TAX APPELLATE TRIBUNAL  
VISA KHAPATNAM BENCH, VISA KHAPATNAM**

**(HYBRID HEARING)**

**श्री दुव्वूरु आरएल रेड्डी, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखासदस्य 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. 310/VIZ/2024**

<b>Acharya Nagarjuna University</b> N.H. – 5, Between Vijayawada Nagarjuna Nagar Guntur – 522510, Andhra Pradesh  [PAN: AAAJA1203B]	v.	<b>Commissioner of Income Tax (Exemptions)</b> Aayakar Bhavan Basheer Bagh Hyderabad – 500004 Telangana State
<b>(अपीलार्थी/ Appellant)</b>		<b>(प्रत्यर्थी/ Respondent)</b>

करदाता का प्रतिनिधित्व / Assessee Represented by	:	Shri K. Siva Ram Kumar, AR
राजस्व का प्रतिनिधित्व / Department Represented by	:	Dr. Satyasai Rath, CIT(DR)
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	09.09.2024
घोषणा की तारीख/Date of Pronouncement	:	25.09.2024

**आदेश / O R D E R**

**PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:**

1. This appeal is filed by the assessee against the order of Learned Commissioner of Income Tax (Exemption), Hyderabad [hereinafter in short

“Ld.CIT(E)”] in DIN & Letter No. ITBA/COM/F/17/2024-25/1065454223(1) dated 06.06.2024 which is directed against the order U/s. 10(23)(vi) (15<sup>th</sup> Proviso to section) of the Income Tax Act, 1961 (hereinafter in short “Act”).

2. Brief facts of the case are that the assessee is an educational institution established on 17.08.1976 by Act 43 of the 1976 of Andhra Pradesh State Legislature Act and Governed by Act 4 of Andhra Pradesh Universities Act 1991. The name of the university was changed to Acharya Nagarjuna University in the year 2002. The university is managed by senate members under the supervision of Department of Higher Education, Andhra Pradesh State Government. The main object of the University is to promote education to the rural people in the State of Andhra Pradesh. The University maintains the following institutions: -

- a. ANU College of Engineering & Technology
- b. ANU College of Pharmacy
- c. ANU College of Architecture & Planning
- d. ANU College of Physical Education.

3. The University receives grants from University Grants Commission and other Government organizations. Ld.CIT(E) on verification of records noticed that even though the University is 50 years old has not registered under section 12A or 10(23C) of the Act, earlier. The University is run by State Government or substantially financed by State Government and is entitled exemption U/s10(23C)(iiiab) or (iiiad) and is not liable to file returns of income.

Subsequently, the case was reopened under section 148 of the Act for A.Y.2015-16 and A.Y. 2018-19 and demands were raised. Consequently, assessee applied for registration under section 10(23C) under the new regime. The assessee was granted registration under Clause (i) of first proviso to clause (23C) of section 10 of the Act in Form 10AC from A.Y. 2022-23 to 2026-27. However, Ld.CIT(E) noticed that while filing the application for approval under section 10(23C) in Form 10A on 25.09.2023 that the assessee has stated 'NO' in SI.No.2 against the row "Do you have earlier issued registration/approval certificate". The Ld.CIT(E) observed that even though assessee not having earlier registration claimed to have approval under section 10(23C) and violated the provisions of the Act by getting the Registration for 5 years. Ld.CIT(E) observed that assessee has violated legal provisions pertaining to exemptions and thus becoming liable for disqualification of Approval under section 10(23C)(vi) of the Act. Thereafter, Ld.CIT(E) issued show cause notice on 27.02.2024 to show cause why the registration should not be cancelled in view of the violations. In response, assessee vide mail dated 11.03.2024 sought adjournment and later submitted its reply on 26.03.2024. Considering the submissions made by the assessee, Ld.CIT(E) concluded that as per clause (e) of the explanation 2 of 15<sup>th</sup> Proviso to section 10(23C)(vi) of the Act, assessee has furnished false and incorrect information which is nothing but a "specified violation". Thereafter, he proceeded to cancel the approval granted under section 10(23C)(vi) of the Act.

4. On being aggrieved by the order of the Ld.CIT(E), assessee is in appeal before us by raising following grounds of appeal: -

*“1. Learned CIT(Exemption)'s order is erroneous on the facts of the case and is bad in law.*

*2. Learned CIT(Exemption) erred in invoking the fifteenth Proviso to Sec. 10(23C)(\*\*) to withdraw the approval u/S.10(23C)(vi), since the premise on which it was withdrawn was on a wrong fact (on the ground that the appellant mentioned in Form.10A that they were not granted exemption at any time earlier, which is an accepted fact on record even as per the learned PCIT).*

*3. Learned CIT(Exemption) erred in observing that there was a 'specified violation' of false information in form.10A whereas the appellant has not filed any false/incorrect information in the said Form.*

*4. The appellant craves leave to add or amend any Ground of Appeal.”*

5. The only contention of the Ld. Authorised Representative [hereinafter “Ld.AR”] is that, assessee was not having any Registration under section 10(23C)(vi) of the Act prior to the application under the New Regime. Ld.AR further submitted that this fact was mentioned in Form 10A filed by the assessee in Sl. No. 2. Ld.AR submitted that the Ld.CIT(E) in Paragraph No. 3 has observed that assessee has not been registered under section 12A or 10(23C) earlier, however, Ld.CIT(E) has contradicted himself by stating that assessee has earlier claimed Registration under section 10(23C) of the Act. He therefore, pleaded that file maybe remitted back to Ld.CIT(E) for re-examination of the case on merits.

6. Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”] relied on the orders of the Ld.CIT(E).

7. We have heard both the sides and perused the material available on record and orders of the Revenue Authorities. It was the contention of the Ld.CIT(E) that assessee has earlier applied for Registration / Approval and the said application was rejected. However, it is observed that the Ld.CIT(E) has not brought any material on record regarding the application made earlier by the assessee. We therefore find merit in the argument of the Ld.AR and hence are of the considered view that it shall be deemed fit to remit file back to the Ld.CIT(E) to re-examine the case on merits and decide on the approval of registration under section 10(23C) of the Act to the assessee.

8. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 25<sup>th</sup> September, 2024.

Sd/-

(दुव्वूरु आरएल रेड्डी)

(DUVVURU RL REDDY)

न्यायिक सदस्य/JUDICIAL MEMBER

Dated :.25.09.2024

Giridhar, Sr.PS

Sd/-

(एस बालाकृष्णन)

(S. BALAKRISHNAN)

लेखा सदस्य /ACCOUNTANT MEMBER

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Acharya Nagarjuna University**  
N.H. – 5, Between Vijayawada  
Nagarjuna Nagar  
Guntur – 522510  
Andhra Pradesh
2. राजस्व / The Revenue : **Commissioner of Income Tax (Exemptions)**  
Aayakar Bhavan  
Basheer Bagh  
Hyderabad – 500004  
Telangana State
3. The Principal Commissioner of Income Tax
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्ड फ़ाईल / Guard file

//True Copy//

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam