

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD

BEFORE
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER
&
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं / ITA No.749/Hyd/2024
(निर्धारण वर्ष / Assessment Year:2018-19)

Asst. Commissioner of Income Tax Circle-1(1) Hyderabad अपीलार्थी / Appellant	Vs.	Ch.Venugopal Reddy Educational Society Hyderabad [PAN : AAAAC5072H] प्रत्यर्थी / Respondent
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Cross Objection No.14/H/2024
(Arising out of आ.अपी.सं / ITA No.749/Hyd/2024)
(निर्धारण वर्ष / Assessment Year:2018-19)

Ch.Venugopal Reddy Educational Society Hyderabad [PAN : AAAAC5072H] अपीलार्थी / Appellant	Vs.	Asst. Commissioner of Income Tax Circle-1(1) Hyderabad प्रत्यर्थी / Respondent
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निर्धारिती द्वारा/Assessee by: Shri K.K.Gupta, AR
राजस्व द्वारा/Revenue by: Shri Madan Mohan Meena, DR

सुनवाई की तारीख/Date of hearing: 15/10/2024
घोषणा की तारीख/Pronouncement on: 17/10/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 17/06/2024 passed by the learned
Commissioner of Income Tax (Appeals), Delhi ("Ld. CIT(A)"), in the case of

Ch.Venugopal Reddy Educational Society (“the assessee”) for the assessment year 2018-19, Revenue preferred this appeal and the assessee filed cross objection.

2. At the outset Learned AR submitted that the assessee is an educational society running educational institutions; that against the order dated 17/10/2019 passed under section 143(1) of the Income Tax Act, 1961 (“Act”), whereunder the entire receipts of the assessee, ignoring the expenditure were brought to tax; and that when the assessee preferred appeal, learned CIT(A) held that when the assessee claimed the expenditure in the financials as per the provisions of the Act and were audited by competent persons, disallowing the expenditure incurred for the purpose of earning the revenue is not justified. Learned AR submitted that Revenue preferred appeal against the learned CIT(A) allowing the expenditure, whereas, assessee filed cross objections justifying the same.

3. Learned AR placed reliance on the decisions of in the case of Annadaneshwara Charitable Trust vs. ITO [2023] 156 taxmann.com 270 (Bang.Trib.) and Sri Ramalingeswara Swamy Temple Vs. ADIT in ITA No.491 & 492/Hyd/2023 dated 12/01/2024 and argued that when the assessee, according to the Revenue, does not enjoy the registration under section 12AA or 10(23) of the Act and exemption thereunder, instead of taxing the gross receipts, the net income alone is required to be taxed, after allowing the allowable expenditure and the assessee is required to be assessed as AOP and entitled to the deduction of expenses.

4. Learned DR submitted that the assessee based its claim on the provisions under section 11 and 12 of the Act and the learned CIT(A) missed the fact that the assessee claimed exemption under section 10(23C)(vi) of the Act in the return of income and the assessee also did not file the audit report within the stipulated time, and therefore, the disallowance of the Revenue and capital expenditure is justifiable.

5. We have gone through the record in the light of the submissions made either side. In Annadaneshwara Charitable Trust (supra) and Sri Ramalingeswara Swamy Temple (supra), it is held that once the assessee has no registration under section 10(23) of the Act, then the income of the assessee is required to be computed under normal provisions of the Act as AOP and, therefore, the net income alone is required to be taxed. Since these decisions are applicable to the facts of the case on all fours, while respectfully following the same, we do not find any illegality or irregularity in the findings of the learned CIT(A) and, therefore, uphold the same.

6. In the result, appeal is dismissed and CO is allowed.

Order pronounced in the open court on this the 17th day of October, 2024.

Sd/-
(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 17/10/2024

Copy forwarded to:

1. The ACIT, Circle-1(1), 2nd Floor, Aayakar Bhavan, Basheer Bagh, Hyderabad
2. Shri Ch.Venugopal Reddy Educational Society, 2-2-15, B9, Flat No.405, Bindu Pristage, Durgabai Deshmukh Colony, Hyderabad
3. The Pr.CIT, Hyderabad
4. The DR, Hyderabad
5. Guard File

ASSISTANT REGISTRAR
ITAT, HYDERABAD