

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

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

**(HYBRID HEARING)**

**श्री के.नरसिम्हा चारी, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्यके समक्ष  
BEFORE SHRI K. NARASIMHA CHARY, HON'BLE JUDICIAL MEMBER**

**&**

**SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER**

**आयकर अपीलसं./I.T.A.No.430/VIZ/2024  
(निर्धारण वर्ष/ Assessment Year: 2020-21)**

<b>Sri Varaha Lakshmi Narasimha Swamy Devstanam #1, Simhagiri Hills, Simhachalam Road Simhachalam – 530028, Visakhapatnam Andhra Pradesh  [PAN: AAALS1522P]</b>	<b>v.</b>	<b>Asst. CIT Exemption Circle Income Tax Office C.R. Building "Annex" M.G. Road Vijayawada – 520002 Andhra Pradesh</b>
<b>(अपीलार्थी/ Appellant)</b>		<b>(प्रत्यर्थी/ Respondent)</b>

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri GVN Hari, AR
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr. AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	19.11.2024
घोषणा की तारीख/Date of Pronouncement	:	28.11.2024

**आदेश /ORDER**

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

1. This appeal is filed by the assessee against the order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal centre, Delhi [hereinafter in short "Ld.CIT(A)"] vide DIN & Order No.

ITBA/NFAC/S/250/2024-25/1067651199(1) dated 14.08.2024 for the A.Y.2020-21 arising out of order passed under section 143(3) of the Income Tax Act, 1961 (in short 'Act') dated 20.09.2022.

2. Brief facts of the case are that, assessee is a religious institution having Registration under section 10(23)(v) of the Act. Assessee also runs petrol bunks at the foothill of the temple to facilitate the filling of petrol for the vehicles of the temple and the pilgrims. Assessee is also registered under section 80G of the Act. Assessee filed its return of income admitting a total income 15,08,700/- for the A.Y. 2020-21. Later, the case was selected for complete scrutiny under CASS. Statutory notices under section 143(2) and 142(1) of the Act were issued and served on the assessee. In response, assessee made various submissions. Later, a show-cause notice dated 16.03.2022 was issued and served on the assessee. In response assessee submitted its reply. On perusal of the details and documents furnished by the assessee, Ld. Assessing Officer [hereinafter in short "Ld. AO"] issued a draft assessment order along with show-cause notice on 16.03.2022 proposing an addition of Rs. 66,17,930/- being the salary expenses of temple staff claimed as an expenditure by the assessee from the business of trading of petroleum products. Since no reply was received, Ld. AO made an addition of Rs.66,17,930/-.

3. Aggrieved by the order of the Ld. AO, assessee filed an appeal before Ld.CIT(A), NFAC, Delhi. Considering the submissions and information provided by the assessee, Ld. CIT(A) dismissed the appeal of the assessee.

4. Aggrieved by the order of the Ld. CIT(A), assessee is in appeal before us by raising the following grounds of appeal: -

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

2 a) *The learned Commissioner of Income Tax (Appeals) is not justified in sustaining the addition of Rs.66,17,930 made by the assessing officer towards disallowance of salaries of temple staff claimed as expenditure from the petrol bunk.*

b) *The learned Commissioner of Income Tax (Appeals) ought to have appreciated that the salaries were paid for services rendered at the petrol bunk but not at the temple and hence the expenditure is directly related to the running of the petrol bunk.*

3. *Without prejudice to the above, the learned Commissioner of Income Tax (Appeals) ought to have held that the income of petrol bunk is also exempt u/s 10(23C) (vi) of the Act in as much as the running of petrol bunk is incidental to the running of the temple.*

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

5. Ground No. 1 and 4 are general in nature and needs no adjudication.

6. Ground No. 2 is relating the addition of Rs. 66,17,930/- sustained by the Ld. CIT(A). On this issue, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that the assessee is operating two petrol bunks, one at Gopalapatnam and other at Gosala located at Foothill of Simhachalam hill. He further submitted that these petrol bunks are managed by the temple staff as

these petrol bunks are integral part of the temple. He further reiterated that Devasthanam is maintained by the Endowment Department of the Government of Andhra Pradesh and it is a standard procedure the temple employee will get transferred within the temples under the Endowment Department of Government of Andhra Pradesh. He further submitted that accordingly temple staff was transferred to the petrol bunk maintained by the Devasthanam and since in nomenclature in the Profit & Loss Account mentioning it as salary to temple staff does not mean they are working for the temple. He further submitted that once employees get transferred to the petrol bunks, they are entirely responsible for the operations of the petrol bunks and hence the salary is paid to such employees shall be treated as expenditure for the petrol bunk maintained by the temple. He therefore pleaded that addition may be deleted.

7. Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”] heavily relied on the orders of the Revenue Authorities.

8. We have heard both the sides and perused the material available on record. Admittedly assessee is maintaining two sets of books of accounts one for the commercial activity for running the petrol bunk and another for the temple trust activities. Assessee has voluntarily admitted the profit arising out of the commercial operations of trading in petrol bunks and has paid the taxes accordingly while filing the return of income. There is merit in the argument of

the Ld.AR that since the temple is running the petrol bunks the salaries paid to petrol bunk employees were not related to the temple activities and is eligible for deduction as expenditure from the gross income earned from operating of such petrol bunks. The argument of Ld. AR that temple staff was transferred to the petrol bunk maintained by the Devasthanam and since in nomenclature in the Profit & Loss Account mentioning it as salary to temple staff does not mean they are working for the temple, since the temple activities are taken care of by Endowment Department of the Government of Andhra Pradesh. We have no hesitation in directing the Ld. AO to delete the addition of Rs. 66,17,930/- claimed by the assessee as salaries for running of the petrol bunk and therefore the ground raised by the assessee is allowed.

9. With respect to Ground No. 3 regarding the application of Section 10(23C)(vi) of the Act for the running of the petrol bunks, since the assessee has admitted voluntarily the income and paid taxes, accordingly, this ground needs no adjudication.

10. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 28<sup>th</sup> November,2024.

**Sd/-**

(के.नरसिम्हा चारी)

**(K. NARASIMHA CHARY)**

**न्यायिक सदस्य/JUDICIAL MEMBER**

Dated: 28.11.2024

*Giridhar, Sr.PS*

**Sd/-**

(एस बालाकृष्णन)

**(S. BALAKRISHNAN)**

**लेखा सदस्य/ACCOUNTANT MEMBER**

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Sri Varaha Lakshmi Narasimha Swamy Devstanam**  
#1, Simhagiri Hills, Simhachalam Road  
Simhachalam – 530028, Visakhapatnam  
Andhra Pradesh
2. राजस्व/ The Revenue : **Asst. CIT**  
**Exemption Circle**  
Income Tax Office  
C.R. Building “Annex”  
M.G. Road  
Vijayawada – 520002  
Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

//True Copy//

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam