

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 सदस्य के समक्ष
BEFORE SHRI K. NARASIMHA CHARY, HON'BLE JUDICIAL MEMBER**

&

SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

आयकर अपीलसं./I.T.A.Nos.213 & 214/VIZ/2024

Mathrusri Mahila Mandali Tetali 8-124/31, Lalitha Nagar Tetali, Tanuku Mandal Tetali- 534218, Andhra Pradesh [PAN: AABTM7021J]	v.	CIT (Exemption) Aaykar Bhawan Opposite LB Stadium Basheer Bagh, Hyderabad – 500004 Telangana
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri VVS Narayana Mediseti, AR
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Satyasai Rath, CIT(DR)
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	02.01.2025
घोषणा की तारीख/Date of Pronouncement	:	17.01.2025

आदेश /ORDER

PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:

1. These appeals are filed by the assessee against different orders Learned Commissioner of Income Tax (Exemption), Hyderabad [hereinafter in short "Ld.CIT(E)"] vide respective DIN & Notice No. as stated below: -

ITA No. & A.Y.	DIN & Notice No.	Dated
ITA No. 213/VIZ/2024	ITBA/EXM/F/EXM45/2023-24/1058941990(1)	20.12.2023
ITA No. 214/VIZ/2024	ITBA/EXM/F/EXM45/2023-24/1059684968(1)	12.01.2024

2. Since the issue raised by the assessee for both the appeals are identical in nature, these appeals are clubbed and a consolidated order being passed. We now take up the appeal in ITA No. 213/VIZ/2024 as a lead appeal.

ITA No. 213/VIZ/2024

3. This appeal is filed by the assessee against the rejection order of the assessee by the Ld.CIT(E) vide DIN & Notice No. ITBA/EXM/F/EXM45/2023-24/1058941990(1) dated 20.12.2023.

4. At the outset, it is noticed from the appeal record that there is a delay of 86 days in filing the appeal before the Tribunal. Explaining the reasons for belated filing of the appeal, the Ld. AR drew our attention to the affidavit filed by the assessee along with a petition seeking for condonation of delay and read out the contents of the petition which is as under:

“Petition requesting for condoning delay of 86 days in filing the appeal:

The appellant is public charitable trust. The impugned appeal is preferred by the appellant against the order dated 20-12-2023 of Commissioner of Income-Tax (exemption), Hyderabad received through E-filing portal on 20-12-2023. The due date for filing the appeal before Hon'ble Tribunal is on or before 19-02-2024, whereas the appeal is filed on 14-05-2024. Thus, there occurred a delay of 86 days in filing the impugned appeal before Hon'ble Tribunal. The delay is unintentional and occurred for the following reasons.

The Penmatsa Sitamma, President of the Society of the appellant is of the age of 71 years and illiterate. Vide Form 10AC dated 09-11-2021, the appellant (PAN No AABTM7021J) was granted registration under Sub clause (i) of clause (ac) of sub-section (1) of section 12A of I.T. Act From AY 2022-23 to AY 2026-2027, in response to application filed in Form 10A dated 02-11-2021. Due to ignorance of the President of the Society and in wrong understanding the technicalities of newly amended provisions with regard to application for registration u/s 12A of I.T. Act by its consultant, the appellant has filed one more application in form 10AB dated 30-06-2023 under sub clause (iii) of clause (ac) of sub-section (1) of section 12A of I.T. Act. The president of the society is unaware of the notices issued in respect the said application filed as no such notices were served to the mobile / mail address furnished in Form 10AB. The said application rejected vide impugned order dated 20-12-2023. On being confronted the same, the consultant has stated that, since, in response to earlier application, registration is granted this rejection application is no bearing and advise to keep quiet. This being the case, recently, when participating in charitable activities carried out by the appellant, the President of the Society has been advised to get second opinion, with regard to impact of rejection.

In view of the above, the President of the Society has consulted another consultant and being advised to pursue the rejection application by filing an appeal, as other wise it may create problems thereafter, as it is an order passed under the provisions of the Act, having its own impact. Immediately, the appellant has taken steps to file this appeal.

Thus there is a delay of 86 days in filing this appeal. The appellant humbly requests the Hon'ble Tribunal to kindly condone the delay and take up the appeal for hearing, in view of, as explained supra, the appellant acted bonafidly on the advice of a consultant and thus prevented by sufficient cause for not presenting the appeal on or before 19th February 2024 without there being any malafide intentions on the part of appellant for delay in filing appeal.

In view of the above, the appellant humbly prays the Hon'ble Income Tax Appellate Tribunal, Visakhapatnam Bench, Visakhapatnam to kindly condone delay of 86 days in filing the appeal or else the appellant will be put to irreparable loss and damage.”

5. On perusal of the contents of the affidavit filed by the assessee as well as the submission of the Ld. AR, we find that the assessee is prevented by a reasonable and sufficient cause in filing the appeal beyond the prescribed time limit with a delay of 86 days. Therefore, we hereby condone the delay of 86

days in filing the appeal before the Tribunal and proceed to adjudicate the appeal on merits in the following paragraphs.

6. Briefly stated facts of the case are, assessee has been granted Registration under section 12A of sub-section (1) of clause (ac) of sub-clause (i) of Income Tax Act, 1961 (in short 'Act') for the period from A.Y. 2022-23 to A.Y. 2026-27 on an application made in Form No.10A dated 02.11.2021. Subsequently the assessee according to new provisions of section 12AB of the Act filed Form No. 10AB on 30.06.2023. Ld.CIT(E) provided three opportunities to the assessee to submit the relevant documents for consideration of the application. The assessee has not complied with the notices issued by the Ld.CIT(E). Thereafter Ld.CIT(E) rejected the application and issued Form No.10AD dated 20.12.2023.

7. Aggrieved by the rejection order assessee filed an appeal before us by raising following grounds of appeal: -

"1. The impugned order by Learned Commissioner of Income Tax (Exemption), Hyderabad, rejecting the application filed by appellant in Form No.10AB seeking registration u/s 12AB of I.T. Act, is not correct on the facts and in the law applicable to the appellant's (PAN No AABTM7021J) case and as such liable to be quashed.

2. In the facts and circumstances of Appellant's case, the Learned Commissioner of Income Tax (Exemption), Hyderabad is not justified in rejecting the application filed by appellant in Form No. 10AB seeking registration u/s 12AB.

3. In the facts and circumstances of Appellant's case, the Learned Commissioner of Income Tax (Exemption), Hyderabad ought to have appreciated that, vide Form 10AC dated 09-11-2021, the appellant (PAN No AABTM7021J) was granted registration under Sub clause i) of clause (ac) of sub-section (1) of

section 12A of I.T. Act From AY 2022-23 to AY 2026-2027, in response to application filed in Form 10A dated 02-11-2021 and as such the present application filed in form 10AB dated 30-06-2023 under sub clause (iii) of clause (ac) of sub-section (1) of section 12A should not have been filed and filed only due to ignorance of appellant in understanding the technicalities of newly amended provisions with regard to application for registration u/s 12A of I.T. Act.

4. In the facts and circumstances of Appellant's case, when a validly approved registration under Sub clause (i) of clause (ac) of sub-section (1) of section 12A of I.T. Act from AY 2022-23 to AY 2026-2027 is available with PAN No AABTM7021J duly reflected in Form 10AB filed, the Learned Commissioner of Income Tax (Exemption), Hyderabad should have properly guided the appellant with regard to application to be filed under sub clause (iii) of clause (ac) of sub-section (1) of section 12A of I.T. Act and should have held that, the present application is infructuous in the light of registration granted of earlier from AY 2022-23 to AY 2026-2027.

5. For these grounds and any other ground or grounds that may be urged during the course of hearing of appeal, the appellant humbly prays the Hon'ble Tribunal to grant relief as claimed or any other relief that, the Hon'ble Tribunal may deem it fit and appropriate in the facts and circumstances of appellant's case.”

8. The only issue contested by the assessee is rejection of the Registration by the Ld.CIT(E). On this issue, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that assessee has filed Form No. 10AB on 30.06.2023 under section 12A of sub-section (1) of clause (ac) of sub-clause (i) of the Act due to ignorance of the assessee, whereas it needs to be filed before six months from the expiry of the present Registration. Ld.AR also submitted that assessee has not understood the technicalities of the newly amended provisions of section with regard to application for Registration. He therefor pleaded that rejection application may be cancelled.

9. Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”] submitted that assessee has voluntarily submitted a fresh application

and has failed to comply with the notices issued by the Ld.CIT(E) calling for information. Ld. DR further submitted that assessee has also not withdrawn the application or submitted any reply before Ld.CIT(E). Ld. DR further submitted that the Ld.CIT(E) has acted in accordance with the application made by the assessee and due to time barring nature of the application, Ld.CIT(E) disposed off the application by rejecting it in the absence of any compliance by the assessee with respect to the notices.

10. We have heard both the sides and perused the material available on record. It is an admitted fact that the assessee has filed an application on 30.06.2023 when it was holding a Registration from A.Y. 2022-23 to A.Y.2026-27. Assessee ought to have applied for renewal of the Registration before six months before the end of the fifth year. However, it was the submission of the Ld.AR that the assessee without understanding the provisions of the Act has assessee applied for Registration under section 12AB of the Act on 30.06.2023. It is also noticed that assessee has not responded to the notices dated 27.10.2023, 04.12.2023 and 12.12.2023 calling for various information from the assessee. In these circumstances, the Ld.CIT(E) has rightly rejected the application for Renewal / Registration of the assessee. We are of the considered view that he assessee on its own applied for Renewal / Registration which was rejected by the Ld.CIT(E) and the pleading of the Ld.AR that due to ignorance of the assessee in understanding the technicalities of the provisions

of the Act could not be accepted. It is not the duty of the Ld.CIT(E) to guide the assessee with regard to the application filed. The assessee has also not appeared before the Ld.CIT(E) with respect to opportunities provided for calling for details. In these circumstances, we find the Ld.CIT(E) has rightly rejected the application for Registration and thereby we uphold the order passed by the Ld.CIT(E) in Form No. 10AD dated 20.12.2023 and thereby we dismiss the grounds raised by the assessee.

11. In the result, appeal of the assessee is dismissed.

ITA No. 215/VIZ/2024

12. Coming to appeal relating to ITA No. 214/VIZ/2024, the assessee has raised identical grounds. Therefore, the decision taken in ITA No. 213/VIZ/2024 in the aforesaid paragraph shall apply mutatis mutandis to the appeal number in ITA No. 214/VIZ/2024. Accordingly, appeal filed by the assessee is dismissed.

13. To sum-up, appeals filed by the assessee are dismissed.

Order pronounced in the open court on 17th January, 2025.

Sd/-
(के.नरसिम्हा चारी)
(K.NARASIMHA CHARY)
न्यायिक सदस्य/JUDICIAL MEMBER
Dated: 17.01.2025
Giridhar, Sr.PS

Sd/-
(एस बालाकृष्णन)
(S. BALAKRISHNAN)
लेखा सदस्य/ACCOUNTANT MEMBER

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

1. निर्धारिती/ The Assessee : **Mathrusri Mahila Mandali Tetali**
8-124/31, Lalitha Nagar
Tetali, Tanuku Mandal
Tetali- 534218, Andhra Pradesh
2. राजस्व/ The Revenue : **CIT (Exemption)**
Aaykar Bhawan
Opposite LB Stadium
Basheer Bagh, Hyderabad – 500004
Telangana
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