

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

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

(HYBRID HEARING)

**श्री रवीश सूद ,न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER**

&

SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

आयकर अपीलसं./I.T.A.No.67/VIZ/2025

Kaligotla Snigdha Sridevi Foundation Koligotla Vari Street Chinna Bazar, Bheemunipatnam Visakhapatnam [PAN:AADTK1059J]	v.	Income Tax Officer (Exemption Ward) Income Tax Office Infinity tower, Shankarmatham Road Santhipuram, Visakhapatnam – 530016 Andhra Pradesh
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri GVN Hari, Advocate
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr.Satyasai Rath, CIT(DR)
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	26.06.2025
घोषणा की तारीख/Date of Pronouncement	:	30.06.2025

आदेश /O R D E R

PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:

1. This appeal is filed by the assessee against rejection order passed by the Learned Commissioner of Income Tax (Exemption), Hyderabad [hereinafter in short "Ld.CIT(E)"] vide DIN & Notice No. ITBA/EXM/F/EXM45/2024-

25/1070203473(1) dated 08.11.2024 seeking registration under section 80G of the Income Tax Act, 1961 (in short 'Act').

2. Brief facts of the case are, assessee being a Trust having a registration under section 12AB of the Act filed an application in Form 10AB seeking registration under section 80G of the Act. Assessee made an application in Form 10A by mentioning the section code as "12-clause(iv) of first proviso to sub-section(5) of section 80G". It was observed that the assessee was holding registration under section 80G of the Act issued by the Department on or before 31.03.2021. Centralised Processing Centre based on the claim made by the assessee in Form 10A granted Registration under section "12-clause(iv) of first proviso to sub-section(5) of section 80G" in Form 10AC dated 24.09.2021 for a period of three years from 24.09.2021 to A.Y. 2024-25. It was observed by the Ld.CIT(E), the assessee ought to have applied in the Form 10A by selecting the section Code "80G(5)(i)" instead of "80G(5)(iv)". Accordingly, he issued a show-cause notice dated 25.10.2024 calling for objections on the proposal to reject the claim made by the assessee. Since assessee has not submitted any reply to the above said notice, the Ld.CIT(E) considered the application for registration under section 80G of the Act filed by the assessee in Form 10AB as infructuous and rejected as not maintainable.

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

“1. The order of the learned Commissioner of Income Tax (Exemption), Hyderabad is contrary to the facts and also the law applicable to the facts of the case.

2. The learned Commissioner of Income Tax (Exemption) is not justified in rejecting the application filed by appellant in Form no.10AB for approval u/s 80G of the Act.

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

4. The only grievance emanating from the above grounds is with respect to the rejection of Registration under section 80G of the Act by the Ld.CIT(E).

5. On this issue, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that the assessee while filing form 10A has inadvertently quoted wrong clause. However, Centralised Processing Centre has issued the provisional registration quoting the wrong clause selected by the assessee. When the assessee sought to apply for permanent registration under section 80G by filing Form 10AB wherein the correct clause was quoted by the assessee. However, the Ld.CIT(E) rejected the application for permanent registration citing that the assessee has quoted wrong clause while filing Form 10AB. Ld.AR further pleaded that this being an inadvertent clerical error while making the application online, an opportunity must be provided to the assessee to correct the clerical error and to apply afresh with the selection of the correct clause under section 80G of the Act. He therefore pleaded that one more opportunity may be provided to the assessee to correct the technical error. Ld.AR relied on the following cases:-

- a. *LTCL Palanaippa Charities Trust v. CIT (E) in ITA No. 575 & 576/CHNY/2023 dated 26.12.2023.*
- b. *Mandava Foundation v. ITO in ITA No. 47/HYD/2024 dated 15.03.2024.*

6. Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”] relied on the impugned order and submitted that the Ld.CIT(E) justified in rejecting the application due to incorrect quoting of provisions.

7. We have heard rival contentions and perused the material available on record. There is no dispute that the assessee is duly registered under section 12AA of the Act and has filed Form 10AB seeking registration under section 80G of the Act. The only basis for rejection by the Ld.CIT(E) is the assessee quoted section “80G(5)(i)” instead of “80G(5)(iv)” wherein in this case assessee was holding registration under section 80G of the Act issued by the department on or before 31.03.2021. This being a mere technical or procedural lapse, and the substance of the application cannot be disregarded solely on such ground. It is also a well settled principle that procedural mistake should not defeat substantial rights especially in cases involved registration of charitable institutions which otherwise meet the conditions stipulated under the Act. The Hon’ble Supreme Court in the case of *CIT v. G.M.Mittal Stainless Steel (P) Ltd.* [263 ITR 255 (SC)] has held the procedural lapses should not come in the way of granting substantive relief, provided the assessee is otherwise eligible. Various judicial pronouncements have held that the procedural defects or

clerical errors should not defeat the substantive rights particularly in the context of welfare and beneficial legislations like Registration 80G of the Act.

8. The assessee in the present case has already been granted Registration under section 12AA of the Act and was also holding Registration under section 80G of the Act, appears to have fulfilled all the substantive conditions prescribed under section 80G of the Act. Therefore, rejection of the application without affording opportunity to rectify the error is not in consonance with the principles of natural justice. In view of the foregoing, we hold that the rejection of the assessee application is not justified and therefore we set-aside the impugned order and restore the matter to the file of the Ld.CIT(E) with a direction to examine the assessee's application on merits after allowing the assessee to rectify the procedural errors. Ld.CIT(E) shall dispose of the application afresh after giving due opportunity of hearing to the assessee. Thus, the appeal is allowed for statistical purposes.

9. In the result, appeal is allowed for statistical purposes.

Order pronounced in the open court on 30th June, 2025.

Sd/-
(रवीश सूद)

(RAVISH SOOD)

न्यायिक सदस्य/JUDICIAL MEMBER

Dated: 30.06.2025

Giridhar, Sr.PS

Sd/-

(एसबालाकृष्णन)

(S. BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Kaligotla Snigdha Sridevi Foundation**
Koligotla Vari Street
Chinna Bazar, Bheemunipatnam
Visakhapatnam
2. राजस्व/ The Revenue : **Income Tax Officer (Exemption Ward)**
Income Tax Office
Infinity tower, Shankarmatham Road
Santhipuram, Visakhapatnam – 530016
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

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam