

आयकर अपीलीय अधिकरण, "सी" न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI

माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य एवं माननीय श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
HON'BLE SHRI S. R. RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1015/Chny/2025

निर्धारण वर्ष/Assessment Year: 2017-18

Income Tax Officer,
Exemptions Ward,
Trichy.

v. Arulmigu Madhurakaliamman
Temple,
Siravachur, Perambalur,
Tamil Nadu-621 113.
[PAN: AACAA9147R]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Ms.T.V.Muthu Abirami,
Advocate,

प्रत्यर्थी की ओर से /Respondent by

: Ms.R.Anitha, Addl.CIT

सुनवाईकीतारीख/Date of Hearing

: 24.07.2025

घोषणाकीतारीख /Date of Pronouncement

: 28.07.2025

आदेश / ORDER

PER MANU KUMAR GIRI, JM:

This is an appeal preferred by the revenue against the order of the Learned Commissioner of Income Tax (Appeal)/NFAC, (in short 'the Ld.CIT(A)'), Delhi, dated 05.02.2025 for the Assessment Year (in short 'AY') 2017-18.

2. Brief facts of the case are as under:

The assessee is a temple and has not filed return of income for the year under consideration. The assessee has made cash deposits amounting Rs.



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45,70,115/- during the demonetisation period. As per the AO's observation, the assessee temple has not filed return and audit report in form 10 BB in stipulated time u/s 139 as per provisions of section 12A91)(b) of the Act. The assessee remained non-responsive during the assessment proceedings. Consequently, the AO passed best judgement order making addition of Rs.1,83,17,175/- found to be excess of income over expenditure.

3. Before the Id. CIT(A), the Id. AR of the assessee contended that the assessee temple exists for the past 1000 years and had been all along carrying religious activities. The assessee temple has filed its application for registration u/s 12AA of the Act on 15.09.2019 and obtained its registration u/s 12AA of the Act on 07.02.2020. The assessment order was passed on 24.12.2019. The main contention before the CIT(A) was that the temple has obtained registration in the year 2020 and the objects of the trust are one and the same all along, therefore, the proviso to section 12A(2) should be read as retrospective in operation with effect from the date when condition of the eligibility for exemption under 11 and 12 as mentioned in section 12A provided for registration. The assessee also relied upon the order of the Delhi Tribunal in the case of Sree Ramkrishna Samity Vs D.C.I.T.



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4. The Id. CIT(A), upon hearing the assessee has passed following order as under:

"..5.5 I perused the above referred case law and find that observations of the Hon'ble ITAT in the above case are applicable to the instant case so far as requirement of registration u/s 12AA to avail benefits of section 11 is concerned. However, the instant case differs on fact that the assessee has not filed the return of income as required under section 139. The appellant has contested against the deny of the appellant's claim towards the exemption claim u/s. 11 of the IT Act. The AO has disallowed said exemption as the original Return wasn't filed as per the provisions of section 139 of the IT Act and the assessee was not registered u/s 12AA of the Act. The appellant has also contested that disallowances of exemption for not having registered u/s 12AA is not reasonable when the assessee has obtained the said registration certificate which is also applicable for the assessment year under consideration as held by various case laws.

5.6 The Appellant's contention has been taken into consideration and the benefit of exemption should be available on the date of registration as the assessment was pending before AO. it is noticed that the provisions of section 12A(ba) provides that the exemption u/s 11 & 12 can be availed only if the return of income was filed in the manner prescribed under the provisions of section 139(4A) of the Act which in turn requires that an



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assessee claiming exemption of income u/s 11 to file the return of income within the due date prescribed u/s 139(1) of the Act. However, the said provision of section 12A(ba) of IT Act were inserted by the Finance Act 2017 w.e.f. from 01.04.2018 which isn't applicable in the case of the appellant as the assessment pertains to AY 2017-18. Prior to the insertion of said section, it wasn't specifically stipulated to file the ITR within the due dates prescribed u/s. 139(1) of the IT Act in order to claim the Exemption u/s. 11 & 12 of the IT Act.

5.7 In view of the above, I am of the considered opinion that the AO's decision of denying exemption u/s. 11 of the IT Act isn't supported by the provisions of the Income Tax Act. Accordingly, the appellant's contention in this regard is found to be correct. Therefore, AO is directed to ascertain the assessee's income allowing exemption available u/s 11 after due verification of facts affecting eligibility for availing the said exemption.

5.8 Proviso to Section 251(1)(a) of the Income Tax Act wef 01/10/2024 provides that in the case of appeal against an order of assessment made under section 144, the Commissioner (Appeals) is empowered to set aside the order of assessment and refer the matter back to the Assessing officer for making a fresh assessment.

5.9 In view of the power conferred under proviso to Section 251(1)(a) of the Act, I hereby set aside the assessment and refer the case back to the



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Assessing Officer for making a fresh assessment, after giving reasonable opportunity of being heard to the assessee. The assessee is directed to file necessary documents for substantiating its case and not seek unnecessary adjournment, so as to facilitate disposal of the case, in accordance with the statutory provisions and the timelines prescribed under Section 153(3) of the Act.

6. Accordingly, based on the above discussion, the appeal is allowed for statistical purpose...”

5. Before us, the Id.DR for the revenue contended that the law as on the date to be seen. Therefore, she contended that the present case is to be seen in the light of the section 12A at prevalent time. She further pleaded that the registration granted has no retrospective application.

6. Per contra, the Id. AR relied upon the order of the Id.CIT(A) and provisions of section 251(1)(a) of the Act. He relied upon the findings of the Id. CIT(A) as held in paras 5.5 to 6 page 9-10 of its order.

7. We have heard the rival submissions and perused the record and case laws. Since the assessment order is ex-parte u/s144 of the Act, therefore, the Id. CIT(A) is well within his power and has rightly invoked the section 251(1)(a) of the Act. Since, the assessment order is set aside and directed for fresh assessment, the assessee has all right to take a plea or submit all such



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documents or audit report for the reason that the assessment proceeding is open now by the order of the Id.CIT(A). Therefore, we do not find any infirmity in the order of the Id.CIT(A) as noted in paras 5.5 to 6 page 9-10 of his order.

8. In the result, appeal filed by the revenue is dismissed.

Order pronounced on the 28th day of July, 2025, in Chennai.

Sd/-

(एस.आर.रघुनाथा)

(S. R. RAGHUNATHA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai, दिनांक/Dated: 28th July, 2025.

KB/-

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF