

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

**IN THE INCOME TAX APPELLATE TRIBUNAL  
VISA KHAPATNAM "DIVISION" BENCH, VISA KHAPATNAM**

**श्री एस बालाकृष्णन, लेखा सदस्य एवं श्री संदीप सिंह करहैल, न्यायिक सदस्य के समक्ष  
BEFORE SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER  
&  
SHRI SANDEEP SINGH KARHAIL, HON'BLE JUDICIAL MEMBER**

**आयकर अपील सं./I.T.A. No. 56/VIZ/2025  
(निर्धारण वर्ष/ Assessment Year:2017-18)**

<b>Dr. Kondabolu Basavapunaiah &amp; Dr. Lakshmi Prasad Trust</b> 1 <sup>st</sup> Lane, Nalanda Nagar, Ring Road Guntur – 522006, Andhra Pradesh  [PAN: AAAAD1505C]	v.	<b>Income Tax Officer – Exemption Ward</b> Income Tax Office Laksh mipuram Main Road Guntur – 522006, Andhra Pradesh
<b>(अपीलार्थी/ Appellant)</b>		<b>(प्रत्यर्थी/ Respondent)</b>

करदाता का प्रतिनिधित्व / Assessee Represented by	:	Shri C. Subrahmanyam, CA
राजस्व का प्रतिनिधित्व / Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	15.09.2025
घोषणा की तारीख/Date of Pronouncement	:	19.09.2025

**आदेश /O R D E R**

**PER SANDEEP SINGH KARHAI, JUDICIAL MEMBER:**

1. The assessee has filed the present appeal against the impugned order dated 22.07.2024, passed under section 250 of the Income Tax Act, 1961 (in short 'Act') by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal centre, Delhi [hereinafter in short "Ld.CIT(A)"], for the A.Y. 2017-18.

2. The present appeal is delayed by 120 days. Along with the appeal, the assessee has filed an application seeking condonation of delay, which is duly supported by the affidavit sworn by the Trustee of the assessee. It is the submission of the assessee that the Trustee of the assessee is aged 91 years and suffered a spinal fracture in December 2021, which required multiple surgeries. Thus, he was bedridden for an extended period. It is submitted that again, on 14.09.2024, the Trustee sustained another fracture to his femur bone, which required an additional six weeks for recovery. To support the above contentions, the assessee has placed on record the medical certificates issued by the doctor treating the Trustee. Accordingly, the assessee submitted that the delay in filing the present appeal occurred due to the circumstances beyond its control. The Revenue did not raise any serious objections against the prayer seeking condonation of the delay.

3. Having considered the submissions of both sides and perusal of the material available on record, we are of the considered view that there was sufficient cause which prevented the assessee from filing the present appeal within the prescribed limitation period. Accordingly, we condone the delay in filing the present appeal by the assessee and proceed to decide the appeal on merits.

4. In this appeal, the assessee has raised the following grounds of appeal: -

*“1. That, on the facts and circumstances of the case and in law, the assessment order passed u/s. 143(3) of the IT Act, 1961, dt.27.12.2019, as*

*upheld by the Ld. CIT(A), NFAC, vide order u/s 250 dt. 22.07.2024, is contrary to the facts of the case and the applicable provisions of law.*

2. *The Ld. CIT(A) erred in law and on facts by denying the exemption u/s.11 of the IT Act on the ground that the property was allegedly sold at an undervalued price. The CIT(A) failed to appreciate that the full consideration was received in accordance with the prevailing market value. Consequently, the CIT(A)'s finding in this regard is unsustainable.*

3. *The Ld. CIT(A) failed to consider that, based on the facts and circumstances of the case, there was no violation of the provisions of section 13(1)(c) r.w.s. 13(2)(f) of the IT Act, and thus, the denial of the exemption U/s. 11 was unwarranted.*

4. *The Ld. CIT(A), while rendering an adverse decision, overlooked certain facts i) the trustee of the society had purchased the property at market value, having made payments of Rs.50 lakhs. In August 2013 and another Rs. 50 lakhs in October 2014. ii) The delay in finalizing the transaction was due to the assessee trust reconsidering the sale, which consequently led to an escalation in the market value. Notably, at the time of the initial payment, the market value as per the SRO was below Rs. 1.67Cr.*

5. *The Ld. CIT(A) erred in concluding that the assessee failed to provide sufficient documentary evidence to substantiate its claims, which is factually incorrect.*

6. *The Ld. CIT(A) erred in upholding the AO finding that there was a violation of the provisions of Section 13(1)(c) r.w.s. 13(2)(f) of the IT Act, thereby incorrectly treating the assessee as an Association of Persons (AOP) and subjecting to tax an amount of Rs. 1,23,62,230/-under the head Income from Capital Gains, along with a variation in purchase value of Rs. 17 lakhs, and an amount of Rs. 8,56,330/-under the head Income from Business.*

7. *Without prejudice to the grounds mentioned above, and assuming, without conceding, that there was a violation of section 13(1)(c) r.w.s 13(2)(f) of the IT Act, the Ld. CIT(A) ought to have held that the Assessing Officer was incorrect in taxing the entire income at the maximum marginal rate. Instead, only that portion of the income which is attributable to the alleged violation should have been subjected to taxation.*

8. *For these and other grounds that may be raised at the time of hearing, the appellant respectfully prays that the order passed u/s. 250 of the IT Act be set aside, and the additions made by the Assessing Officer and confirmed by the Ld. CIT(A) be deleted.”*

5. The solitary grievance of the assessee is against the denial of exemption under section 11 of the Act on account of violation of provisions of section 13(1)(c) r.w.s. 13(2)(f) of the Act.

6. The brief facts pertaining to this issue are that the assessee is a Charitable Trust registered under section 12A of the Act and Section 80G of the Act. For the year under consideration, the assessee filed its return of income on 31.03.2018 declaring a total income of Rs.2,13,63,753/-. The return filed by the assessee was selected for scrutiny under CASS in order to verify the sale of shares, securities or other property to Specified Persons. Accordingly, statutory notices under section 143(2) and 142(1) of the Act were issued and served on the assessee. During the course of assessment proceedings, from the perusal of the Audit Report in Form 10B, it was observed that the assessee has declared that the property was sold by the assessee to one of its Trustees, viz., Dr Kondabolu Vara Prasad, during the year under consideration. As per the sale deed filed, it was noticed that the assessee Trust sold its land admeasuring 1675 Sq. Yards at Koritipadu for a total consideration of Rs.1,00,50,000/- as against the market value of Rs.1,67,50,000/-vide sale deed dated 12.05.2016 and paid stamp duty on the value of Rs.1,67,50,000/- and given possession and all rights over the property to the buyer Dr. Kondabolu Vara Prasad, i.e. Trustee of the assessee Trust. Thus, it was observed that the assessee benefited its Trustee by selling the property for lower consideration and also by handing over the possession of the entire property

on the date of the sale deed itself. Subsequently, the assessee filed the rectification deed dated 31.01.2018 wherein the consideration was mentioned at Rs.1,50,50,000/- as against the original consideration of Rs.1,00,50,000/-, and also mentioning the market value at Rs.1,67,50,000/-, on the basis that the actual sale consideration was Rs.1,50,50,000/- and one of the cheques for Rs.50 lakhs was not mentioned in the sale deed by the document writer. Since even as per the rectified sale deed, the assessee paid the consideration of only Rs.1,50,50,000/-, which was less than the market value of Rs.1,67,50,000/- of the property, and the Trustee is one of the Specified Persons as per the provisions of section 13(3) of the Act, the Ld. Assessing Officer [hereinafter in short "Ld. AO"] vide order dated 27.12.2019 passed under section 143(3) of the Act held that the assessee has violated the provisions of section 13(1)(c) r.w.s. 13(2)(f) of the Act. Accordingly, the Ld. AO denied the exemption claimed by the assessee under section 11 of the Act and taxed the assessee as an AOP at the Maximum Marginal Rate. The Ld. AO brought to tax the balance sale consideration of Rs. 17,00,000/-, which was not paid by the Trustee to the assessee, and also treated the other miscellaneous income amounting to Rs. 8,56,330/- received by the assessee as its business income, thereby computing the total income of Rs. 25,56,330/-.

7. The Ld. CIT(A), vide impugned order, dismissed the appeal filed by the assessee and upheld the denial of exemption claimed by the assessee under section 11 of the Act.

8. Being aggrieved, the assessee is in appeal before us.

9. We have considered the submissions of both sides and perused the material available on record. In the present case, there is no dispute regarding the basic facts that the land admeasuring 1675 Sq. Yards was sold by the assessee Trust to one of its Trustees. Since the Market value of the said land was Rs.1,67,50,000/-, and the Trustee only paid an amount totalling Rs.1,50,50,000/-, the lower authorities held that there is a clear violation of the provisions of section 13(1)(c) r.w.s. 13(2)(f) of the Act, as the property of the Trust was sold at a lesser consideration to one of the Trustees, who is a Specified Person as per the provisions of section 13(3) of the Act. According to the assessee, the proposal for the sale of the land to one of the trustees was approved in 2013, and subsequently, the Trustee also made the part payment in advance prior to the execution of the sale deed on 12.05.2016. It is further the plea of the assessee that Rs.50 Lakhs was paid by the Trustee on 30.08.2013, another payment of Rs.50 lakhs was made by the Trustee through cheque on 01.10.2014, and on 12.05.2016, i.e. on the date of execution of sale deed, the Trustee again made a payment of Rs.50,50,000/- to the assessee as a consideration for the purchase of the said land. Therefore, as per the assessee, consideration of Rs.1,50,50,000/- was paid by the Trustee to the assessee for the purchase of the aforementioned land. Since the entire consideration paid by the trustee was not recorded in the sale deed executed on 12.05.2016, due to an inadvertent error on the part of the

document writer, a rectified sale deed was executed on 31.01.2018, mentioning the total sale consideration of Rs. 1,50,50,000/-.

**10.** It is evident from the record that the Revenue has not disputed the fact that the payment of Rs.1,50,50,000/- was received by the assessee from the sale of the aforementioned land. However, as the market value of the said property on the date of registration of the sale deed, i.e., 12.05.2016, was Rs.1,67,50,000/-, it is the contention of the Revenue that the Assessee-Trust has sold the property for a consideration less than the market value to its Trustee, which has violated the provisions of section 13(1)(c) r.w.s. 13(2)(f) of the Act.

**11.** During the hearing, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that the resolution to sell the land to the Trustee was passed by the assessee Trust in the year 2013. The Trustee, at the outset, gave an advance of Rs.50 lakhs to the assessee-Trust on 13.08.2013 through cheque, and thereafter steps were taken to generate the funds for payment of the remaining amounts. By referring to the subsequent payments, as noted in the foregoing paragraphs, Ld.AR submitted that till the date of registration of the sale deed on 12.05.2016, the assessee had paid a total consideration of Rs. 1,50,50,000/-. Thus, as per the Ld.AR, since prior to the execution of the sale deed itself, the Trustee had already made a payment of Rs. 1,00,00,000/-, the assessee decided not to charge the balance sum of Rs. 17,00,000/- from the Trustee, as the assessee had enjoyed the

interest-free payments from the Trustee received much prior to the execution of the sale deed on 12.05.2016. Ld.AR by referring to the bank statement of the assessee forming part of the bank statement of the assessee submitted that the balance payments of Rs.17,00,000/- was also paid by the Trustee on 19.12.2018, and therefore the transaction was ultimately carried out at a consideration equivalent to the market price, which is not in violation of the provisions of section 13 of the Act.

**12.** Having considered the submissions of both sides and perused the material available on record, we are of the considered view that the basic purpose of section 13(1)(c) r.w.s. 13(2)(f) r.w.s. section 13(3)(cc) of the Act is to prohibit the assessee Trust from transferring the benefit, inter alia, of any property of the Trust to its Trustees by selling the property for a consideration which is less than adequate. As noted in the foregoing paragraphs, until the date of registration of the sale deed on 12.05.2016, which was further rectified on 13.01.2018, the Trustee made a total payment of Rs. 1,50,50,000/- in different tranches from the year 2013 to the date of registration of the sale deed in the year 2016. Further, even the balance consideration of Rs. 17,00,000/- was also paid by the Trustee on 29.03.2018. Therefore, in the facts of the present case, it is evident that the property was sold to the Trustee at the market price of Rs.1,67,50,000/-. Thus, we are of the considered view that there is no violation of provisions of section 13(1)(c) r.w.s. 13(2)(f) of the Act as alleged by the Revenue in the present case.

In the absence of any material contrary to the submissions/documents placed on record by the assessee, we are of the considered view that the Ld. CIT(A) erred in upholding the denial of exemption claimed by the assessee under section 11 of the Act. Accordingly, we direct the Ld. AO to grant the exemption under section 11 of the Act to the assessee Trust and compute its income. As a result, the grounds raised by the assessee are allowed.

13. Since the relief has been granted to the assessee on merits, the additional ground of appeal raised by the assessee has been rendered academic, and therefore, the same is kept open.

14. In the result, the appeal by the assessee is allowed.

Order pronounced in the open court on 19<sup>th</sup> September, 2025.

Sd/-

(एस बालाकृष्णन)

(S. BALAKRISHNAN)

लेखा सदस्य /ACCOUNTANT MEMBER

Dated :19.09.2025

Giridhar, Sr.PS

Sd/-

(संदीप सिंह करहैल)

(SANDEEP SINGH KARHAIL)

न्यायिक सदस्य/JUDICIAL MEMBER

आदेशकी प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Dr. Kondabolu Basavapunaiah &  
Dr. Lakshmi Prasad Trust**  
1<sup>st</sup> Lane, Nalanda Nagar, ring Road  
Guntur – 522006  
Andhra Pradesh
  
2. राजस्व / The Revenue : **Income Tax Officer – Exemption Ward**  
Income Tax Office  
Lakshmipuram Main Road  
Guntur – 522006, Andhra Pradesh
  
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

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आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam