

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

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

**(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**

**आईटीए. नं. / ITA Nos. 436 & 437/VIZ/2025  
(A.Ys.2012-13 & 2013-14)**

<b>Rajaji Educational Society</b> D.No. 44-8-28/1 Jagannadh Vihar Thatichetlapalem Visakhapatnam – 530016 Andhra Pradesh  [PAN:AAAAR2894L]	v.	<b>Income Tax Officer – Exemption Ward</b> Income Tax Office, Infinity towers Sankaramatam Road Visakhapatnam – 530016 Andhra Pradesh
<b>(अपीलार्थी/ Appellant)</b>		<b>(प्रत्यर्थी/ Respondent)</b>

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri GVN Hari, Advocate
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	07.10.2025
घोषणा की तारीख/Date of Pronouncement	:	31.10.2025

**आदेश /O R D E R**

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

1. These appeals are filed by the assessee against different orders of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal centre,

Delhi [hereinafter in short “Ld.CIT(A)”] vide respective DIN & Order No. & dated as stated below: -

ITA No. (A.Y.)	DIN & Order No.	Dated
ITA No. 436/VIZ/2025 (A.Y. 2012-13)	ITBA/NFAC/S/250/2023-24/1058331352(1)	30.11.2023
ITA No. 437/VIZ/2025 (A.Y. 2013-14)	ITBA/NFAC/S/250/2023-24/1056350890(1)	21.09.2023

2. Since the appeals are belonging to same assessee, therefore, both these appeals are clubbed and heard together and a consolidated order being passed. Firstly, we take up the appeal in ITA No. 436/VIZ/2025 for the A.Y. 2012-13.

**ITA No. 436/VIZ/2025 (A.Y. 2012-13)**

3. Brief facts of the case are that, assessee is a society filed its return of income for the A.Y. 2012-13 on 26.09.2012 declaring NIL income. The return was summarily processed under section 143(1) of the Act on 20.03.2013. Subsequently, the case was selected for scrutiny under CASS and accordingly statutory notices under section 143(2) and 142(1) of the Act were issued and served on the assessee. Assessee has not complied with the said notices and no information was filed before Ld. Assessing Officer [hereinafter in short “Ld.AO”]. Ld. AO in the absence of books of accounts and other relevant information denied the exemption claimed under section 10(23C)(iiiad) of the Act and estimated 45% of the gross receipts as income of the assessee.

4. On being aggrieved by the order of the Ld. AO, assessee filed an appeal before Ld. CIT(A). Assessee did not respond to the multiple opportunities provided by the Ld. CIT(A). Considering the non-compliance by the assessee, Ld. CIT(A) dismissed the appeal of the assessee based on the material available on record.

5. On being aggrieved by the order of the Ld. CIT(A), assessee is in appeal before us by raising 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. The learned Commissioner of Income Tax (Appeals) is not justified in deciding the appeal ex-parte.*

*3. The learned Commissioner of Income Tax (Appeals) ought to have held that the appellant is eligible for exemption u/s 10(23C) (iiiad) of the Act, 1961.*

*4. The learned Commissioner of Income Tax (Appeals) ought to have deleted the addition of Rs.41,19,480 made by the assessing officer by estimating income @ 45% of the gross receipts of Rs.91,54,400.*

*5. The learned Commissioner of Income Tax (Appeals) ought to have held that the assessing officer is not justified in treating the income of the appellant at maximum marginal rate*

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

6. At the outset, it is noticed that appeal has been filed with a delay of 532 days. The assessee has filed a condonation petition along with the affidavit stating the reasons for non-filing of the appeal within the due date. Considering the reasons explained by the assessee, we are of the considered view that there

is sufficient cause on the part of the assessee for the delay in filing of the appeal by 532 days. We are therefore inclined to condone the delay and proceed to decide the appeal on merits in the following paragraphs.

7. The only issue emanating from the grounds of appeal is denial of exemption under section 10(23C)(iiiad) of the Act by the revenue and the assessee is entitled for exemption 10(23C)(iiiad) of the Act. On this issue, Ld.Authorised Representative [hereinafter “Ld.AR”] submitted that gross receipts of the assessee is Rs.91,54,400/- which is below the limit of Rs.1,00,00,000/- as per section 10(23C)(iiiad) of the Act and hence assessee is entitled for exemption under section 10(23C)(iiiad) of the Act. He further submitted that assessee has also claimed the benefit while filing the return of income which is evident from the computation statement available in Paper Book in Page No. 2 & 3. Ld.AR also submitted that the financial statements also attached in paper book in Page No. 4 to 8 wherein the assessee gross receipts is disclosed. He therefore pleaded that the issue may be remitted back to the file of Ld. CIT(A) to examine the entitlement of the assessee claiming exemption under section 10(23C)(iiiad) of the Act.

8. Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”] submitted that assessee was continuously non-compliant before the Ld.AO and before Ld. CIT(A). The revenue has provided multiple

opportunities but the assessee failed to comply with the notices. She therefore pleaded that the order of the Ld. CIT(A) be sustained.

**9.** We have heard both the sides and perused the material available on record. It is an admitted and undisputed fact that the assessee has not appeared before the Ld. AO or before the First Appellate Authority for the various notices issued calling for details. Ld. AO had framed the assessment under section 144 of the Act while the Ld. CIT(A) dismissed the appeal of the assessee *ex parte*. Considering the facts and circumstances as narrated in the petition for condonation of delay, assessee was prevented from responding to the notices for the reasons as mentioned in the petition. In these circumstances, following the principle of natural justice, we are of the considered view that the assessee may be provided one more final opportunity to establish the entitlement for exemption under section 10(23C)(iiiad) of the Act before Ld. CIT(A). We therefore direct the Ld. CIT(A) to provide one more opportunity of being heard to the assessee and decide the case on merits in accordance with law. Assessee is also directed to cooperate with the remand proceedings failing which the Ld.CIT(A) is at liberty to adjudicate the case on merits based on the material on record. Accordingly, the ground raised by the assessee is allowed for statistical purposes.

**10.** In the result, appeal of the assessee is allowed for statistical purposes.

**ITA No. 437/VIZ/2025 (A.Y. 2013-14)**

**11.** At the outset, it is noticed that appeal has been filed with a delay of 594 days. The assessee has filed a condonation petition along with the affidavit stating the reasons for non-filing of the appeal within the due date. Considering the reasons explained by the assessee, we are of the considered view that there is sufficient cause on the part of the assessee for the delay in filing of the appeal by 594 days. We therefore inclined to condone the delay and proceed to decide the appeal on merits in the following paragraphs.

**12.** Assessee has filed the appeal by raising 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. The learned Commissioner of Income Tax (Appeals) is not justified in dismissing the appeal in limine by refusing to condone the delay of 46 days in filing the appeal in electronic mode.*

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

**13.** The only issue raised by way of Ground No.2 is with respect to dismissing of the appeal by the First Appellate Authority *in-limine* by refusing to condone the delay of 46 days in filing the appeal before Ld. CIT(A). Ld.AR pleaded that the delay may be condoned and the issue may be remitted back to the file of Ld.CIT(A) for fresh adjudication.

**14.** Per contra, Ld. DR relied on the orders of the Revenue Authorities.

15. We have heard both the sides and perused the material available on record. It is admitted and undisputed fact that the assessee has filed the appeal before CIT(A) with a delay of 46 days. The Ld. CIT(A) considering the fact that, no details were available in record in order to substantiate the delay in filing the appeal before the First Appellate Authority, dismissed the appeal of the assessee *in-limine*. Considering the facts and circumstances of the instant case, we are of the considered view that assessee shall be provided one more final opportunity and therefore we direct the Ld. CIT(A) to condone the delay of 46 days and decide the issue on merits in accordance with law by providing one more opportunity of being heard to the assessee. Accordingly, ground raised by the assessee is allowed for statistical purposes.

16. In the result, appeal of the assessee is allowed for statistical purposes.

17. To sum-up, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on 31<sup>st</sup> October, 2025.

Sd/-

(रवीश सूद)

(RAVISH SOOD)

न्यायिक सदस्य/JUDICIAL MEMBER

Dated. 31.10.2025

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 : **Rajaji Educational Society**  
D.No. 44-8-28/1  
Jagannadh Vihar  
Thatichetlapalem  
Visakhapatnam – 530016  
Andhra Pradesh
2. राजस्व/ The Revenue : **Income Tax Officer – Exemption Ward**  
Income Tax Office, Infinity towers  
Sankaramatam Road  
Visakhapatnam - 530016
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