

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

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

**श्री संदीप सिंह करहैल, न्यायिक सदस्य एवं श्री ओंकारेश्वर चिदारा लेखा सदस्य के समक्ष,
BEFORE SHRI SANDEEP SINGH KARHAIL, HON'BLE JUDICIAL MEMBER
&
SHRI OMKARESHWAR CHIDARA, HON'BLE ACCOUNTANT MEMBER**

**आयकर अपील सं./I.T.A. No. 77/VIZ/2025
(निर्धारण वर्ष/ Assessment Year:2017-18)**

The Income Tax Officer, Exemption Ward Shiva Towers, 5th Floor Danavaipeta, Rajahmundry – 533103 Andhra Pradesh	v.	Sri Venkateswara Swamy Temple Batchupet, Machilipatnam Krishna District – 521001 Andhra Pradesh [PAN: AAAJS4922R]
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

सी.ओ सं. / C.O. No. 8/VIZ/2025

[आयकर अपीलसं.से उत्पन्न / ITA No.77/VIZ/2025 (निर्धारण वर्ष/ A.Y. 2017-18)]

Sri Venkateswara Swamy Temple Batchupet, Machilipatnam Krishna District – 521001 Andhra Pradesh [PAN: AAAJS4922R]	v.	The Income Tax Officer, Exemption Ward Shiva Towers, 5th Floor Danavaipeta, Rajahmundry – 533103 Andhra Pradesh
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व / Assessee Represented by	:	Shri K. Siva Ram Kumar, CA
राजस्व का प्रतिनिधित्व / Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	16.12.2025
घोषणा की तारीख/Date of Pronouncement	:	19.12.2025

आदेश / O R D E R

PER SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER:

1. The present appeal by the Revenue and cross objection by the assessee have been filed against the impugned order dated 15.10.2024, 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 matters were listed for hearing before us pursuant to the order dated 21.11.2025, passed by the Co-ordinate Bench of the Tribunal in Sri Venkateswara Swamy Temple v. ITO in M.A. No. 38/Viz/2025 (Arising out of C.O.No. 8/VIZ/2025 in ITA No. 77/VIZ/2025, for the A.Y. 2017-18), whereby the earlier order dated 20.05.2025, passed under section 254(1) of the Act, was recalled for fresh adjudication of Ground No. 2 raised by the assessee in its cross objection, as the same goes to the root of the matter being the maintainability of the appeal filed by the revenue. The relevant observations of the Co-ordinate Bench, in the aforesaid decision in this regard, are as follows: -

"6. Since the Tribunal has not adjudicated the issue raised by the assessee in the cross objection, therefore, there is an apparent mistake in the impugned order of the Tribunal which requires to be rectified. Further, the issue raised by the assessee goes to the root of the matter being the maintainability of the appeal filed by the Revenue. Accordingly, in the facts and circumstances of the case, we recall the impugned order of the Tribunal for fresh adjudication of ground no.2 as raised in the cross objection of the assessee. The Registry is directed to list the cross objection of the assessee

for fresh hearing on 16.12.2025. The date of hearing of the appeal is announced in the open Court and has been noted by both the parties, therefore, no separate notice be issued to the parties.”

3. Ground No.2 raised in assessee’s cross objection is reproduced as follows:-

“2. The appeal filed falls below the prescribed monetary limits set out in CBDT Cir.No.5/2024 dt.15.3.24 and hence not maintainable; and is also not maintainable as the appellant has not demonstrated as to how the present appeal with 'tax effect below the monetary limits as per CBDT Circular No.5/2024 is covered by the exceptions, as none of the exceptions mentioned in the Circular are relevant/applicable in the appeal filed by the Revenue; the tax effect in the appeal as per the CIT(A)'s order is Rs.21,66,994/- (7.2180025-7.13031) only .

*(*Exceptions mentioned in Circular No.5/2024 are shown below for ready reference)”*

4. As per the assessee, the tax effect involved in the Revenue’s appeal is below the monetary limit prescribed in CBDT Circular No. 5/2024 dated 15.03.2024, and hence the Revenue’s appeal is not maintainable. From the perusal of the Form-36 filed in the Revenue’s appeal, we find that in Column No.10, the tax effect relating to the grounds of appeal raised by the Revenue is mentioned as Rs. 21,66,990/-. We find that it is further mentioned that the case is “covered under exceptions”. During the hearing, Ld.Departmental Representative [hereinafter in short “Ld.DR”] submitted that the Revenue’s appeal falls under exceptions provided in Clause-(f) of Para No.3.1 of the CBDT Circular No. 5/2024, which reads as follows: -

“f. Where the tax effect is not quantifiable or not involved, such as the case of registration of trusts or institutions under sections 10(23C), 12A/12AA/12AB of the Act, order passed u/s 263 of the Act etc. The

reference to cases involving sections referred here, where it is not possible to quantify tax effect or tax effect is not involved, is for the purpose of illustration only.”

5. From the careful perusal of the exception provided in Clause-(f) of Para No.3.1 of the CBDT Circular No. 5/2024, we find that the same deal with cases where the tax effect is not quantifiable, such as the cases of registration of trusts or institutions under sections 10(23C), 12A, 12AA & 12AB of the Act, or passed under section 263 of the Act, etc. However, it is evident from the record that in the present case, the Assessing Officer completed the scrutiny assessment proceedings under section 144 of the Act vide order dated 06.12.2019 and computed the total income of the assessee at Rs.76,38,426/-, after making the additions. We further find that there is no dispute regarding the fact that the assessee was assessed in the status of “Artificial Juridical Person” and it is an admitted fact that the assessee was granted Registration under section 12AA of the Act only w.e.f. A.Y. 2018-19. Thus, in the year under consideration, there was no dispute regarding the grant of registration under any of the sections as mentioned in the exceptions as provided in Clause-(f) of Para No.3.1 of the CBDT Circular No. 5/2024. During the hearing, apart from relying on the grounds raised by the Revenue in its appeal, the Ld. DR could not bring any material to show that the Revenue’s appeal falls under any of the exceptions provided in the circular referred to above. As the tax effect relating to the grounds of appeal raised by the Revenue is Rs.21,66,990/-, which is below the prescribed monetary

limit for preferring the appeal before the Tribunal, we are of the considered view that the Revenue's appeal deserves to be dismissed. Accordingly, Ground No.2 raised in the assessee's cross objection is allowed, and the appeal filed by the Revenue is dismissed.

6. In the result, the appeal by the Revenue is dismissed, while the cross objection filed by the assessee is allowed in terms of our aforesaid order.

Order pronounced in the open court on 19th December, 2025.

Sd/-
(ओंकारेश्वर चिदारा)
(OMKARESHWAR CHIDARA)
लेखा सदस्य / ACCOUNTANT MEMBER
Dated: 19.12.2025
Giridhar, Sr.PS

Sd/-
(संदीप सिंह करहेल)
(SANDEEP SINGH KARHAIL)
न्यायिक सदस्य/JUDICIAL MEMBER

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

1. निर्धारिती/ The Assessee : **Sri Venkateswara Swamy Temple**
Batchupet, Machilipatnam
Krishna District – 521001, Andhra Pradesh
2. राजस्व / The Revenue : **The Income Tax Officer, Exemptions Ward**
Shiva Towers, 5th Floor,
Danavaipeta, Rajahmundry – 533103
Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीय प्रतिनिधि, आयकर अपीलिय 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