

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

श्री रवीश सूद, माननीय न्यायिक सदस्य एवं श्री एस बालाकृष्णन, माननीय लेखा सदस्य

**SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER
AND
SHRI S BALAKRISHNAN HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No.337 to 339/Viz/2024 &
489/Viz/2024

(निर्धारण वर्ष/ **Assessment Year: 2014-15 to 2016-17 & 2013-14**)

Sri Sahasralingeswara Swamy Temple, Ponnur Town and Ponnur Mandalam Guntur PAN: ACIFS4319L	Vs.	Income Tax Officer Exemption Ward Guntur
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

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	:	17/11/2025
घोषणा की तारीख/ Date of Pronouncement	:	28/11/2025

ORDER

Per Bench :

These appeals filed by the assessee are recalled in consequence to the Miscellaneous Petitions filed by the assessee against the orders of the Tribunal passed in ITA No.337, 338 & 339/Viz/2024 dated 17.01.2025 and in ITA No.489/Viz/2024 dated 22.01.2025. In the first round of proceedings before the Tribunal, the assessee filed appeals

against different orders Learned Commissioner of Income Tax (Appeals), National Faceless Appeal centre, Delhi [hereinafter in short “Ld.CIT(A)”] vide respective DIN & Order No. as stated below: -

ITA No. & A.Y.	DIN & Order No.	Dated
ITA No. 337/VIZ/2024 (A.Y. 2014-15)	ITBA/NFAC/S/250/2024-25/1065943292(1)	24.06.2024
ITA No. 338/VIZ/2024 (A.Y. 2015-16)	ITBA/NFAC/S/250/2024-25/1065943483(1)	24.06.2024
ITA No. 339/VIZ/2024 (A.Y. 2016-17)	ITBA/NFAC/S/250/2024-25/1065943772(1)	24.06.2024

2. Since the issue raised by the assessee for all these appeals are identical in nature, these appeals are clubbed and a consolidated order being passed. We now take up the appeal in ITA No. 337/VIZ/2024 for the A.Y.2014-15 as a lead appeal.

ITA No. 337/VIZ/2024 (A.Y. 2014-15)

3. This appeal is filed by the assessee against order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal centre, Delhi [hereinafter in short “Ld.CIT(A)”] vide DIN & Order No. ITBA/NFAC/S/250/2024-25/1065943292(1) dated 24.06.2024 for the A.Y.2014-15 arising out of order passed under section 147 r.w.s. 144 of the Income Tax Act, 1961 (in short ‘Act’) dated 24.06.2024.

4. Brief facts of the case are that, assessee being a Religious Trust taken over by the Endowment Department of Government of Andhra

Pradesh on 23.06.1976 filed its return of income for the A.Y. 2014-15 under New PAN: AATTS4305D on 12.08.2017. It was observed by the Ld. Assessing Officer [hereinafter in short "Ld. AO"] that the assessee has set apart the funds at 15% at Rs. 16,38,405/- and declared surplus of Rs. 92,910/-. Ld. AO found that assessee is not Registered under section 12A of the Act for the impugned assessment year but has Registered with effect from A.Y. 2017-18. Ld. AO therefore concluded that in the absence of Registration under section 12A of the Act assessee cannot claim 15% surplus as exempt for the A.Y. 2014-15 and therefore brought the entire surplus of Rs. 17,19,315/- as income of the Trust. Before the Ld. AO, assessee submitted that it is covered by the proviso to section 12A of the Act and hence requested to allow the claim of exemption under section 12A of the Act. Ld. AO did not accept the above contention of the assessee by observing that the order under section 12AA granting Registration is with effect from A.Y. 2017-18 whereas the proceedings under section 147 of the Act were initiated only after 26.03.2021 and therefore shall not be covered under proviso to section 12A of the Act. He therefore proceeded to tax the surplus of Rs. 17,19,315/- as income of the Trust.

5. Aggrieved by the order of the Ld. AO, assessee filed an appeal before Ld. CIT(A). Assessee has made similar argument before the

Ld.CIT(A). Considering the submissions of the assessee, Ld. CIT(A) granted partial relief to the extent of Rs. 11,53,325/- which was declared as Agricultural Income, thereby reduced the taxable income of the assessee to Rs. 5,65,990/-.

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

“Ground No-1:- The appellant is a Temple Religious Trust having registration Under Section - 12A of the Income Tax Act, 1961 on 17-07- 2017 and there was no change in constitution as it belongs to Endowments Department of State Government of Andhra Pradesh. As such, the temple trust will get U/s-12A benefits for this Assessment Year also and will also get 15% accumulation benefits, to be worked out and granted while calculating income computation as per Hon'ble Supreme Court of India decision and assessment cannot be reopened Under Section - 147 of the Income Tax Act, 1961 as per Hon'ble Court decisions.

Ground No-2:- The permanent Capital Receipts of Permanent Ubhayams of Rs.54,649/- and Permanent Nithya • Gothram Receipts towards capital of Rs.3,94,348/- will not form part of Gross Receipts Income and they should be excluded from Gross Receipts Income, as they are capital receipts.

Ground No-3:- The assessment made Under Section - 144 read with section - 144B of the Income Tax Act, 1961 is not correct and valid without verifying the information filed, hence the assessment made is to be cancelled and

all benefits prayed in the above grounds to be granted and there will be no tax.

Ground No-4:- The submissions filed at the time of hearing of assessment and appeal may kindly be taken as part and parcel of this Grounds of Appeal.

Ground No-5:- The appellant is a Religious Charitable Trust without prejudice to the above though U/s-12A-Registration is not there the tax rates for the Assessed-Income must be taken as 'individual rates giving basic exemption limit of Rs.2,50,000/-, but not 30% on the entire Net Income. As such, the tax calculation must also kindly be made as stated in the Grounds of Appeal.'

7. The Ld.AR submitted that the Ld.CIT(A) has erroneously considered first proviso to section 12A(2) of the Act while dismissing the appeal of the assessee. However, he has failed to consider the ground No.1 relied on third proviso, regarding reopening of assessment u/s 147 of the Act preceding the assessment year in which registration u/s 12A was granted to the assessee. The Ld.AR submitted that the assessee is covered under the proviso 3 to section 12A(2) of the Act and hence, the assessment based on a notice which is not valid is *void-ab-initio*.

8. Per contra, the Ld.DR relied on the orders of the revenue authorities.

9. We have heard both the parties and perused the material available on record. It is an admitted fact that the Ld.CIT(A) has failed to adjudicate ground No.1 before him, challenging the validity of the assessment order based on a notice u/s 147 of the Act issued for the assessment years prior to the date of registration. Section 12A(2) is reproduced below for reference.

“12A. (2) Where an application has been made on or after the 1st day of June, 2007, the provisions of sections 11 and 12 shall apply in relation to the income of such trust or institution from the assessment year immediately following the financial year in which such application is made:

Provided that where registration has been granted to the trust or institution under section 12AA, then, the provisions of sections 11 and 12 shall apply in respect of any income derived from property held under trust of any assessment year preceding the aforesaid assessment year, for which assessment proceedings are pending before the Assessing Officer as on the date of such registration and the objects and activities of such trust or institution remain the same for such preceding assessment year:

Provided further that no action under section 147 shall be taken by the Assessing Officer in case of such trust or institution for any assessment year preceding the aforesaid assessment year only for non-registration of such trust or institution for the said assessment year:

Provided also that provisions contained in the first and second proviso shall not apply in case of any trust or institution which was refused registration or the registration granted to it was cancelled at any time under section 12AA.”

10. On a plain reading of the third proviso, it is clear that no action u/s 147 shall be taken by the AO in case of such Trust or institution for any assessment year preceding the aforesaid assessment year only

for non-registration of such Trust or institution for the said assessment year. In the instant case, reassessment proceedings u/s.147 were initiated by issue of notice u/s 148 on 26.03.2021 for the A.Y.2015-16, 2016-17 and 2014-15 on the reason that the assessee trust does not have registration u/s 12A during the impugned assessment years. There is merit in the argument of the Ld.AR that the action of the Ld.AO is barred by the third proviso to section 12A, which is reproduced as above.

11. Further, Hon'ble High Court of Punjab & Haryana in the case of Prem Chand Markanda SD College for Women Vs. Assistant Commissioner of Income Tax (Exemptions) [2023] 154 taxmann.com 442 (Punjab & Haryana) has held as follows :

“Where a reopening notice was issued upon the assessee for assessment year 2015-16 on ground that there was escapement of income on account of bank interest and cash deposits in two bank accounts of assessee, since assessee was granted registration under section 12AA on 30.09.2016 and 3rd proviso to section 12A(2) strictly prohibits issuance of notice under section 148 in case of a trust for any year preceding assessment year, in which registration under section 12AA was granted, no action under section 147 could be taken for year 2015-16 and thus impugned notice was to be set aside.”

12. The SLP filed by the department before the Hon'ble Supreme Court was dismissed by upholding the order of the Hon'ble High Court

of Punjab & Haryana. Respectfully following the decision of the Hon'ble Supreme Court of India, we are of the considered view that the action initiated by the AO u/s 147 of the Act for the assessment year prior to the date of registration is not valid in law and deserves to be deleted. We, therefore, have no hesitation to quash the assessment order, thereby, allow the ground No.1 raised by the assessee. Other grounds are not adjudicated since the assessment order is being quashed and are left open. Thus, in the result, the appeal of the assessee is allowed.

ITA No.489/Viz/2024, A.Y.2013-14

13. There is a delay of 87 days in filing the appeal before the Tribunal. At the outset, the learned counsel for the assessee filed an affidavit and explained the reasons for the delay and submitted that the delay was due to inadvertent mistake committed by the Chartered Accountant which was neither unintentional nor deliberate. He, therefore, pleaded to condone the delay and admit the appeal for hearing in the interest of justice for which the Ld.DR has not raised any objection.

14. We have heard both the parties and gone through the petition along with the affidavit filed by the learned counsel for the assessee for condonation of delay and find there is a sufficient cause to condone

the delay and accordingly condone the delay and admit the appeal for hearing.

15. We find that the assessee has raised identical grounds for the A.Y.2013-14 as raised for the A.Y.2014-15 to 2016-17. Therefore, the decision taken in ITA No.337 to 339/Viz/2024 for the A.Y.2014-15 to 2016-17 in the aforesaid paragraphs shall apply *mutatis mutandis* to the appeal in ITA No. 489/Viz/2024 for the A.Y.2013-14 as well. Accordingly, appeals filed by the assessee are allowed.

16. To sum up, all the appeals of the assessee are allowed *mutatis mutandis* for the A.Y.2013-14 to 2016-17.

Order pronounced in the open court on 28th November, 2025.

Sd/- (रवीश सूद) (RAVISH SOOD) न्यायिक सदस्य/JUDICIAL MEMBER	Sd/- (एस बालाकृष्णन) (S BALAKRISHNAN) लेखा सदस्य/ACCOUNTANT MEMBER
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Visakhapatnam,
Dated 28.11.2025.
L.Rama/SPS

आदेश की प्रतिलिपि अग्रेषित/ **Copy of the order forwarded to:-**

1.	निर्धारिती/The Assessee	:	Sri Sahasralingeswara Swamy Temple, Ponnur Town and Ponnur Mandal, Guntur District-522124, Andhra Pradesh
2.	राजस्व/ Revenue	The :	The Income Tax Officer (Exemptions), Standard House, Behind SBI Commercial Branch, Nagarampalem, Guntur, Andhra Pradesh
3.	The Principal Commissioner of Income Tax, Visakhapatnam		
4.	विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण / DR,ITAT, Visakhapatnam.		
5.	The Commissioner of Income Tax		
6.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam.