

आयकर अपीलीय न्यायाधिकरण, विशाखापट्टनम “एस एम् सी” बेंच में
IN THE INCOME TAX APPELLATE TRIBUNAL
Visakhapatnam “SMC” Bench, Visakhapatnam

श्री विजय पाल राव, माननीय उपाध्यक्ष एवं श्री ओम्कारेश्वर चिदारा, माननीय लेखा सदस्य

SHRI VIJAY PAL RAO, HON’BLE VICE PRESIDENT
AND

SHRI OMKARESHWAR CHIDARA, HON’BLE ACCOUNTANT MEMBER

आयकर अपीलसं./I.T.A.No.744/Viz/2025
(निर्धारण वर्ष/ **Assessment Year: 2021-22**)

Visakha Matsyakarula Kalanjia Samakya Visakhapatnam PAN : AAATV9643G (अपीलार्थी/ Appellant)	Vs.	Income Tax Officer (Exemption Ward) Visakhapatnam (प्रत्यर्थी/ Respondent)
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri G.V.N.Hari, Advocate (Hybrid)
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr.Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	22.01.2026
घोषणा की तारीख/ Date of Pronouncement	:	13.02.2026

ORDER

PER OMKARESHWAR CHIDARA, A.M :

This appeal filed by the assessee is directed against the order of the Addl/JCIT(A)-6, Mumbai in DIN & Order No.ITBA/APL/S/250/2025-26/1081358622(1) dated 30.09.2025, arising out of rectification order passed by the Ld.AO u/s 154 of the Income Tax Act, 1961 (“the Act”), pertaining to the assessment year 2021-22.

2. In the above cited assessee's appeal, this mutually aided charitable Trust (an NGO) formed for the benefits of fisherman community, filed its return of income, declaring total income of Rs.Nil. As against the same, CPC, Bengaluru disallowed exemption claimed by the Trust u/s 11 of the Act and processed the return of income u/s 143(1) of the Act on 23.08.2022, determining the total income at Rs.13,06,389/-. The CPC, Bengaluru noted that the assessee did not obtain new registration certificate and hence the entire income was treated as net profit, while processing the return of income. After getting the demand notice and intimation order, the assessee has filed a rectification application before CPC, stating that this Charitable Trust is for the benefit of fisherman community, consisting of 117 Self Help Groups ("SHGs") with a total number of 1460 female members, who are all below poverty line and illiterates. Each member contributes an amount of Rs.200/- per month towards savings and the same is deposited in the bank. The bank sanctions loan to the SHGs, depending upon the amount of deposit they have made. These SHGs would be saved from obtaining loans from private money lenders at high rate of interest and hence, they formed a Trust in the name of "Visakha Matsyakarula Kalanjia Samakya". As this is a non profit making organisation, serving the members of SHGs and the principle

of mutuality will apply to this organisation and hence, exemption claimed u/s 11 should have been allowed to it. After considering the reply, the AO CPC rejected the application and a demand of Rs.2,53,300/- was raised. It was mentioned by the CPC that the since the Trust has not renewed the registration u/s 12A, it is not entitled to claim the benefit of sub-section (2) of section 12A. Hence, the Trust requested the CPC to give instructions to compute income of the Trust on commercial principles basis and assess the net profit in the hands of Trust, in the capacity of AOP, taxed at individual tax rates. Subsequently, there was no response from AO CPC.

3. Aggrieved by the addition made by the CPC, an appeal was filed before the CIT(A). The Ld.CIT(A) rejected the contentions of the appellant Trust and confirmed the addition made by the CPC, stating that the law is well settled that registration u/s 12A/12AB is precondition for availing exemption u/s 11 and 12 and in the absence of such registration, the assessee is not eligible to claim the said exemption. Moreover, no revised return was filed within the time prescribed u/s 139(5) of the Act to change the ITR form or declare income under different status. To sum up, since there was no proper registration to claim exemption u/s 11 of the Act, it was held that action of AO/CPC, denying the exemption u/s 11 was upheld.

4. As the assessee did not get relief before the first appellate authority, an appeal was filed before ITAT with almost the same grounds. In other words, the AO/CPC and the Ld.CIT(A) were not correct in taxing the entire income, without allowing the expenditure, which is eligible for deduction, even if the assessee is not entitled for exemption u/s 11 of the Act on the principles of commercial basis. During the proceedings before the Bench, learned AR of the assessee has filed a small paper book again with the request to consider the case by taxing the net income and not gross income on the gross receipts of the SHGs. Even if the exemption u/s 11 is denied, the principles of natural justice demand that, only the net income is to be taxed. The Trust has claimed certain expenditure relating to the income earned and pleaded that the net income may be taxed as per law.

5. The Ld.DR has argued that since there is no registration, entire income is to be taxed at maximum marginal rate and no further deduction should be given.

6. After hearing both sides, it is decided that the gross receipts should never be taxed and it is always the net profit which should suffer the tax and on this cardinal principle, the Income Tax Act itself

was designed. It is an admitted fact that there is no fresh registration, but at the same time, what is to be seen is that the income after considering relevant expenditure only should be taxed. Since the appellant Trust is claiming such expenditure, the same may be considered and if the same is relevant to earn the income, the net income may be taxed by the Ld.AO. With these directions, the issue is remitted to the file of the Ld.AO. Needless to say an opportunity should be given to the assessee and then, a fresh assessment may be done.

7. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the Open Court on 13th February, 2026.

<p>Sd/- (विजय पाल राव) (VIJAY PAL RAO) उपाध्यक्ष /VICE PRESIDENT</p>	<p>Sd/- (ओम्कारेश्वर चिदारा) (OMKARESHWAR CHIDARA) लेखा सदस्य/ACCOUNTANT MEMBER</p>
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Visakhapatnam
dated 13.02.2026.
L.Rama/sps

ITA No.744/Viz/2025
Visakha Matsyakarula Kalanjia Samakya

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

1.	निर्धारिती/The Assessee	:	The Visakha Matsyakarula Kalanjir Samakya, D.No.2-4D-61/54, Opp.Aparna Pan Shop, Anjayya Nagar, Visakhapatnam
2.	राजस्व/ Revenue	The :	The Income Tax Officer, Exemption Ward, Income Tax Office, Infinity Towers, Sankaramatam Road, Visakhapatnam
3.	The Principal Commissioner of Income Tax, Visakhapatnam		
4.	विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापट्टनम / The DR, ITAT, Visakhapatnam		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam