आयकर अपीलीय न्यायाधिकरण में, हैदराबाद 'ए' बेंच, हैदराबाद
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad "A" Bench, Hyderabad

श्री मंजुनाथा जी., माननीय लेखा सदस्य एवं श्री रवीश सूद, माननीय न्यायिक सदस्य
SHRI MANJUNATHA G., HON'BLE ACCOUNTANT MEMBER
AND
SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER

आयकरअपीलसं./I.T.A.No.1576-1578/Hyd/2025
(**निर्धारण वर्ष**/ Assessment Year: 2019-20 to 2020-21)

Vagdevi Educational Society Kodad PAN : AABAV5820H	*Vs.*	Income Tax Officer Ward-1 Suryapet
(अपीलार्थी/ Appellant)		**(प्रत्यर्थी/ Respondent)**

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri G.V.N.Hari, CA
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Ms.Aditi Goyal, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	05.02.2026
घोषणा की तारीख/ Date of Pronouncement	:	20.02.2026

O R D E R

PER MANJUNATHA G., A.M :

The captioned appeals filed by the assessee are directed against the orders of the Addl/JCIT(A)-1, Guwahati, Office of the learned Commissioner of Income Tax (Appeals) ["Ld.CIT(A)"], all

dated 16.07.2025, pertaining to the assessment year 2018-19, 2019-20 and 2020-21. Since the issues involved in all these appeals are identical, these appeals are clubbed, heard together and a common order is being passed for the sake of convenience as under. Facts are extracted from ITA No.1576/Hyd/2025, A.Y.2018-19, being lead appeal.

2. The assessee has raised the following grounds of appeal:

> *1. The order of 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 un upholding the order passed by the assessing officer u/s 154 of the Act in as much as there is an error in the intimation passed u/s 143(1) of the Act disallowing the deduction of expenditure of Rs.2,31,73,045 which is eligible for deduction even if the appellant is not entitled for exemption u/s 11 of the Act.*
>
> *3. The learned Commissioner of Income Tax (Appeals) ought to have directed the assessing officer to allow the deduction of the expenditure by considering the explanation of the appellant that the return was filed by mistake in ITR-7 instead of ITR-5 and hence there is no requirement to file Form 10B and also for the reason that the appellant is eligible for deduction of the expenses irrespective of exemption u/s 11 of the Act.*
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> *4. Any other ground that may be urged at the time of appeal hearing.*

3. The brief facts of the case are that the assessee is a society, running educational institutions at Kodad, Telangana. The assessee has filed its return of income for the A.Y.2018-19 on 31.03.2019, declaring net loss of Rs.1,14,640/-. During the financial year, relevant to the A.Y.2018-19, the appellant society has gross receipts of Rs.2,30,58,404 from tuition fee, hostel fee etc. and incurred various expenditure for running the educational institutions to the extent of Rs.2,29,43,763/- and reported deficit/loss of Rs.1,14,641/-. The appellant society has filed its return of income in Form ITR 7 and claimed status of Trust/Institution. The return of income filed by the assessee has been processed u/s 143(1) of the Income Tax Act, 1961 ("the Act") and intimation dated 20.03.2020 was issued and determined the total income at Rs.2,30,58,404/-, arrived at tax liability of Rs.1,06,17,950/- by denying exemption claimed u/s 11 of the Act and assessed gross receipts without allowing deduction towards various expenditure or income applied for charitable purposes. The assessee filed a petition u/s 154 dated 27.08.2022 before the A.O. and the petition filed by the assessee has been rejected by the A.O. vide order passed u/s 154 dated 14.10.2022, on the ground that the petition filed by the assessee

seeking rectification of the order does not come under the provisions of section 154 of the Act as the mistake is not primarily borne from the record.

4. Aggrieved by the order passed by the A.O. u/s 154 of the Act, the assessee has filed an appeal before the CIT(A). Before the CIT(A), the assessee contested that, when the A.O. denied claim of exemption u/s 11 of the Act, he should have assessed the assessee in the status of AOP in commercial principles and only excess of income over expenditure or profit or loss declared by the assessee should be taxed, but not the gross receipts, by allowing deduction for expenditure. The Ld.CIT(A), after considering the relevant submissions of the assessee, rejected the explanation of the assessee, on the ground that the application filed by the assessee u/s 154 of the Act, seeking to rectify the order passed by the A.O. u/s 143(1)(a) of the Act is not maintainable, because, there is no apparent mistake in the order passed by the A.O. and thus, there is no merit in the appeal filed by the assessee against order u/s 154 of the Act.

5. Aggrieved by the order of the Ld.CIT(A), the assessee is now in appeal before the Tribunal.

6. The learned counsel for the assessee, Shri G.V.N.Hari, Advocate, submitted that the Ld.CIT(A) erred in dismissing the appeal filed by the assessee against the order passed by the A.O. u/s 154 of the Act, without appreciating the fact that the order passed by the A.O. u/s 143(1)(a) of the Act, without considering relevant material on record suffers from mistake, which is glaring, patent and discernible from the face of the assessment order and thus, the A.O. ought to have rectified the mistake u/s 154 of the Act. The learned counsel for the assessee further submitted that the assessee is a society, running educational institutions is not registered u/s 12A of the Act for the year under consideration. Although the assessee is not entitled for claiming exemption u/s 11 of the Act, but, by oversight, the appellant has filed ITR Form No.7 instead of ITR Form No.5 and the A.O.(CPC) on the basis of incorrect ITR Form filed by the assessee has rejected the exemption claimed u/s 11 and also not allowed deduction towards various expenditure, even though the said expenditure is part of return of income filed by the

assessee. Therefore, he submitted that the order of the Ld.CIT(A) should be set aside and the A.O. may be directed to assess the income of the assessee on commercial principles and profit or loss if any from the financial statements furnished by the assessee should be assessed to tax. In this regard, he relied upon the decision of coordinate Bench in the case of Saroj Gopal Educational Society Vs. ITO (Exemption) in ITA No.19/RPR/2023 dated 21.08.2023.

7. Ms.Aditi Goyal, the Ld.Sr.AR for the Revenue, on the other hand, supporting the order of the Ld.CIT(A) submitted that there is no dispute with regard to the fact that once the exemption is denied u/s 11 of the Act, the income of any Trust or Institution should be assessed as AOP like any other entity, however, fact remains that the assessee has filed an incorrect Form ITR 7 as against ITR Form No.5 and the A.O., after considering the relevant Form filed by the assessee and also for not filing Form No.10B, has rejected the application of income or expenditure incurred by the assessee against income and determined the total income on the basis of gross receipt of the assessee. The Ld.CIT(A), after considering the relevant facts has rightly sustained the additions made by the A.O.

Therefore, she submitted that the order of the Ld.CIT(A) should be upheld.

8. We have heard both the parties, perused the material on record and gone through the orders of the authorities below. There is no dispute with regard to the fact that the appellant society, running educational institution has filed Form ITR 7 and claimed exemption u/s 11 of the Act, even though the appellant society does not possess valid registration u/s 12A of the Act. The A.O.(CPC) processed the return of income filed by the assessee and issued intimation u/s 143(1)(a) of the Act and assessed gross receipts as income of the assessee, without allowing deductions for various expenditure. The A.O. had also rejected the petition filed by the appellant society u/s 154 of the Act on the ground that the said application is not maintainable, because there was no prima facie mistake apparent on record in the order of the A.O.

9. We have given our thoughtful consideration to the reasons given by the A.O. to reject the petition filed by the assessee u/s 154 of the Act and upheld by the Ld.CIT(A), in light of various arguments of the counsel for the assessee and we do not ourselves subscribe to

the reasons given by the Ld.CIT(A) for the simple reason that, the intimation issued by the ITO/CPC u/s 143(1)(a) of the Act, assessing the gross receipts of the assessee as its income, without allowing deductions for various expenditure claimed by the assessee, suffers from mistake apparent on record, which needs to be rectified u/s 154 of the Act. Because although the assessee has reported gross receipts and corresponding expenditure incurred for running the educational institution, which is available in the return of income filed by the assessee, the A.O. has conveniently rejected the exemption u/s 11 of the Act for not filing audit report in From No.10B and not getting registration u/s 12A of the Act has denied deduction towards various expenditure, even though it is the obligation of the A.O. to assess the income of the appellant society in line with commercial principles once the exemption claimed u/s 11 has been denied. Therefore, in our considered view, assessing the gross receipts of assessee society by the A.O. suffers from mistake, which is glaring, patent and apparent from the record and thus, the A.O. ought to have rectified the said mistake on petition filed by the assessee u/s 154 of the Act. The Ld.CIT(A), without considering the relevant facts simply upheld the order passed by the A.O.

10. Having said so, let us come back to the correct legal position. There is no dispute with regard to settled position of law that once, exemption claimed u/s 11 has been denied for any reason, including non-registration of relevant society u/s 12A of the Act or non-filing of relevant audit report on or before the due date, then the law is very clear, in as much as the income of the said society or institution should be assessed in line with commercial principles and only profit or loss if any for relevant assessment year should be brought to tax. In the present case, the A.O, having denied the benefit of exemption u/s 11 of the Act has erred in not computing the income of the assessee on commercial principles, even though the financial statements filed by the assessee along with return of income filed in ITR Form No.7, clearly shows the gross receipts of the assessee and corresponding expenditure incurred for running educational institution. Although the assessee has reported various expenditure, the A.O. has not considered the relevant expenditure incurred by the assessee and assessed gross receipts for taxation, contrary to the settled position of law. Therefore, we are of the considered view that the A.O. has completely erred in assessing the gross receipts for taxation without allowing deductions towards various expenditure.

11. In view of this matter and considering the facts and circumstances of the case, we are of the considered view that the Ld.CIT(A) without considering relevant facts simply rejected the contention of the assessee and upheld the additions made by the A.O. Thus, we set aside the order of the Ld.CIT(A) and restore the issue back to the file of A.O. and direct the A.O. to assess the income of the assessee in line with commercial principles, after considering relevant books of accounts and financial statements filed by the assessee. The A.O. is directed to verify the expenditure claimed by the assessee and bring to tax only excess of income over expenditure or profit or loss earned by the assessee for the year under consideration.

12. In the result, appeal filed by the assessee is allowed for statistical purpose.

ITA No.1577/Hyd/2025 to 1578/Hyd/2025, A.Y.2019-20 & 2020-21

13. The facts and issues involved in these appeals filed by the assessee are identical to the facts and issues, which we had considered in ITA No.1576/Hyd/2025, in assessee's own case for the

A.Y.2018-19. But for the figures, the issues are identical. The reasons given by us in preceding paragraph Nos. 9 to 11 shall *mutatis mutandis* apply to these appeals as well. Therefore, for similar reasons, we set aside the order of the Ld.CIT(A) and restore the issue back to the file of the A.O.. The A.O. is directed to assess the appellant society in the status of AOP and also in line with commercial principles, after allowing deduction towards various expenditure incurred by the assessee and bring to tax only excess of income over expenditure or profit or loss earned by the assessee for the years under consideration.

14. In the result, both the appeals filed by the assessee are allowed for statistical purpose.

15. To sum up, all the three appeals filed by the assessee are allowed for statistical purpose.

Order pronounced in the Open Court on 20th February, 2026.

Sd/- **(**रवीश सूद**)** **(RAVISH SOOD)** **न्यायिक सदस्य/JUDICIAL MEMBER**	**Sd/-** (मंजूनाथ जी**)** **(MANJUNATHA G.)** **लेखा सदस्य/ACCOUNTANT MEMBER**

Hyderabad,
Dated 20.02.2026.
L.Rama/sps

<u>आदेशकी प्रतिलिपि अग्रेषित/ **Copy of the order forwarded to:-**</u>

1.	निर्धारिती/The Assessee	:	M/s Vagdevi Educational Society, D.No.4-131, Naya Nagar, Sri Rangapuram, Kodad, Telangana
2.	राजस्व/ The Revenue	:	The Income Tax Officer, Ward-1, Krishna Nagar Colony, Suryapet, Hyderabad
3.	The Principal Commissioner of Income Tax (Central), Hyderabad.		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, हैदराबाद / DR, ITAT, Hyderabad		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad