

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

**BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER &
SHRI D.S. SUNDER SINGH, HON'BLE ACCOUNTANT MEMBER**

I.T.A. No. 474/VIZ/2016

M/s. Prema Samajam,
C/o M/s. Rowe & Pal, CAs,
14-36-1, Krishna Nagar,
Visakhapatnam.

vs. ITO (Exemptions),
Visakhapatnam.

PAN No. AAATV 9376 Q
(Appellant)

(Respondent)

Assessee by : Shri Y. Appa Rao, CA
Department By : Shri S.R.S. Narayan, CIT DR

Date of hearing : 10/03/2020.
Date of pronouncement : 18/03/2020.

ORDER

PER V. DURGA RAO, JUDICIAL MEMBER

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Exemptions), Hyderabad, dated 31/08/2016, whereby 12A registration has been rejected.

2. Facts of the case in brief are that assessee-society is registered under the Societies Registration Act, filed applications in Form No.10A and 10G on 17/02/2016 seeking registration u/sec. 12AA of the Income Tax Act, 1961 (hereinafter referred to

as 'Act'). Before the Id.CIT(E), the assessee has furnished the original Memorandum of Association (MoA) and also various details as required. The Id.CIT(E) by perusing the same observed that landed property is gifted to the society by the Author, Sri P.V.G. Raju will be reverted back to the heirs of his family which is contrary to the law, therefore asked explanation from the assessee. Before the Id.CIT(E), the Manager of the society appeared and submitted that land has been given as a gift and the gift is not a conditional while giving land to the trust. However, the Id.CIT(E) has observed that the trust in its MoA has been mentioned that on dissolution, the land will be given back to the heirs of the donors, which is not as per law. Accordingly, the Id.CIT(E) is of the opinion that it is not a fit case to grant registration u/sec. 12AA and rejected registration.

3. On appeal before us, Id.AR has submitted that assessee is running old age home, accommodating the orphans, providing free education to the poor and also providing services to the affected persons with leprosy and submitted that assessee is existed only to do the charity activities and therefore without examining the same, the Id.CIT(E) dismissed the application by considering the irrelevant clause in the gift deed and prayed that 12A registration may be granted.

4. On the other hand, Id.DR relied on the report submitted by the ITO (Exemptions), dated 05/03/2020.

5. We have heard both the sides and gone through the material available on record. We find that the assessee society is existed in the name of "Prema Samajam" with the following objects:-

- "1. To arrange free boarding and clothes to weaker and poor people irrespective of religion and castes.*
- 2. To arrange facilities other than means to poor students.*
- 3. To arrange food and other requirements to people during calamities.*
- 4. To establish on sound footing, destitute homes for general public as well as for poor students.*
- 5. To establish free schools for illiterate.*
- 6. To give free medical aid to poor and sick.*
- 7. To establish mother & child care homes, wherever found necessary.*
- 8. To emancipate poor and work for the prohibition of animals sacrifice*
- 9. To arrange exhibitions for clear environment in slum areas and propagate cleanliness.*
- 10. Wherever and Executive Body finds it proper, to form sub-committees and to amalgamate other associations having similar ideals.*
- 11. To assist those who face calamities, to and arrange surccor to the needy, within the frame work of the by-laws of the Samajam at all times."*

From the above objects it is very clear that the assessee-society is running an old age home in 03 acres of land situated in Vizianagaram. The ITO(Exemptions), Visakhapatnam has submitted his report to the Id.CIT(DR) dated 05/03/2020 which reveals that the main activities of 'Prema Samajam' is to provide

shelter and food for destitutes who are above 50 years of age. At present, there are around 50 destitutes taking shelter in it. Apart from this, the assessee is providing paying guest accommodation for the needy. Paying guest accommodation is said to be provided to those who are admitted by their kids or nearby relatives. The expenditure for running the organization is from interest income earned on bank deposits held by it. The deposits held by the organization are said to be out of funds donated by the public. Enquiries revealed that some donors initially donated each Rs. **1.00 lakh to the 'Prema Samajam' as one time donation for the benefit of it** and the donations so collected were deposited in bank accounts held by it. Apart from the above, it is also learnt that **some donations are extended by public for 'Annadhanam Scheme'** for benefit of the assessee. Apart from the donations accepted from public, it also receives sponsorships for providing food from public on special occasions i.e. birthdays, marriage days etc. Prema Samajam collects Rs. 3,000/- from public to provide food to the inmates on the day of their choice who want to sponsor food for the inmates of it for arranging food for all the 100 inmates presently housed. Some Doctors are learnt to be visiting Prema Samajam extending their free service to treat the inmates on fortnightly basis. One more building also sponsored by the

Visakha Dairy Trust, Visakhapatnam. After examining the objects and activities carried by the assessee and also report submitted by the ITO (Exemptions), Visakhapatnam which reveals that the assessee is running old age home providing free shelter and food to at least 50 destitutes and also extending services to the poor people and free medical treatment. The source of income of the assessee is donations collected from the public and interest income deposited in the banks. By examining all these facts we are of the opinion that the assessee is solely existed for the purpose of running society to carry the charitable activities, even assessee is charging some amount from the people who are admitted in the paying guest accommodation and expenses borne by the children or relatives. Ultimately all the funds are used for the benefit of the people who are admitted in the society, no profit making activity is carried out by the assessee. Under these facts and circumstances of the case, we are of the opinion that without there being any doubt, the assessee is running its society in charitable lines and is deserves to be granted registration u/sec. 12A of the Act.

6. So far as Id.CIT(E) rejected the 12A registration on the ground that clause mentioned in the gift deed is not in accordance with law is concerned; we find that the above reason given by the

Id.CIT(E) is not correct in rejecting the 12A registration to the assessee. Further, the Id.CIT(E) not at all examined what the assessee's activities whether assessee actually carrying charitable activities are not. Without doing so, the Id. CIT(E) picked up an irrelevant clause in the gift deed and rejected 12A, in our opinion Id. CIT(A) is not correct. We, therefore, granting 12A to the assessee. Ordered accordingly.

7. In the result, appeal filed by the assessee is allowed.

Order Pronounced in open Court on this 18th day of March, 2020.

Sd/-
(D.S. SUNDER SINGH)
Accountant Member

sd/-
(V. DURGA RAO)
Judicial Member

Dated: 18th March, 2020.

vr/-

Copy to:

1. *The Assessee - M/s. Prema Samajam, C/o M/s. Rowe & Pal, CAs, 14-36-1, Krishna Nagar, Visakhapatnam.*
2. *The Revenue - ITO (Exemptions), Visakhapatnam.*
3. *The CIT(E), Hyderabad.*
4. *The D.R., Visakhapatnam.*
5. *Guard file.*

By order

(VUKKEM RAMBABU)
Sr. Private Secretary,
ITAT, Visakhapatnam.