

IN THE INCOME TAX APPELLATE TRIBUNAL  
VISAKHAPATNAM BENCH, VISAKHAPATNAM

BEFORE SHRI DUVVURU R L REDDY, HON'BLE JUDICIAL MEMBER  
&  
SHRI S. BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

I.T.A. No.108/Viz/2021		
(Asst. Year :2015-16)		
Roman Catholic Diocese of Eluru, H.No.12-103, Bishops House, Cathedral Road, Xavier Nagar, Eluru.  PAN:N AAATR 2125 D  (Appellant)	Vs.	Asst. Commissioner of Income Tax (Exemptions), Vijayawada.  (Respondent)
Assessee by:	Shri C. Subrahmanyam	
Revenue by:	Shri MN Murthy Naik, CIT-DR	
Date of hearing:	14/03/2022	
Date of pronouncement:	07/04/2022	

ORDER

PER S. BALAKRISHNAN, ACCOUNTANT MEMBER

This appeal filed by the assessee against the order of the Ld. CIT (Exemptions) [CIT (E)], Hyderabad vide DIN and Letter No.ITBA/COM/F/17/2020-21/1031926223(1), dated 30/03/2021 for the AY 2015-16.

2. Brief facts of the case are that the assessee is a Registered Society under the Societies Registration Act and is also registered u/s. 12A of the IT Act, 1961. The assessee is carrying out medical and educational activities and conducting pastoral activities in the name and style of M/s. Roman Catholic Diocese of Eluru Bishop House. The assessee filed its e-return of income admitting NIL income for the AY 2015-16 on 25/09/2015. The case was selected for scrutiny and accordingly notices u/s. 143(2) and 142(1) of the Act along with a questionnaire served on the assessee. In response to the notices the assessee's Ld. AR appeared and filed the information called for by the Ld. AO. The Ld. AO after verification of the books of accounts and the information furnished by the assessee, concluded the assessment by accepting the income returned by the assessee. The Ld. CIT (E) by invoking the provisions of section 263 of the Act observed that the assessment order passed by the Ld. AO is erroneous and prejudicial to the interests of the revenue. He therefore, issued notice U/s. 263 on 28/02/2020. The assessee filed its reply on 24/03/2020j in response to the show cause notice u/s. 263 of the Act. The Ld. CIT (E) observed that an amount of Rs. 11,56,800/- in respect of FCRA receipts was claimed as expenses under the head 'agricultural activity'. The Ld. CIT (E) also observed that there is no such agricultural offered against expenditure claimed to be incurred. The Ld.

CIT (E) also verified the objects of the society and observed that activity of agriculture is nowhere mentioned as the objects of the assessee-society. Ld. CIT(E) therefore concluded that the expenditure is not eligible for exemption u/s. 11 of the Act. The Ld. CIT(E) relied on the decision of the ITAT, Chennai Bench in the case of SIFI Software Ltd vs. ACIT and the decision of the Hon'ble Delhi High Court in the case of BSES Rajdhani Power Ltd. Vs. Pr. CIT reported in 399 ITR 228 (Delhi) in his order and considered the assessment order passed by the Ld. AO as erroneous and prejudicial to the interest of the revenue and thereby set-aside the assessment order with a direction to the AO to re-do the assessment after verification of the issues in accordance with law. Aggrieved by the order of the Ld. CIT(E), the assessee is in appeal before us.

3. The assessee has raised the following grounds in its appeal and they extracted herein below for reference:

- “1. That under the facts and circumstances of the case the orders passed under the provisions of section 263 of the IT Act is contrary to the provisions of law.*
- 2. The impugned order passed U/s. 263 of the IT Act is barred by limitation in view of the provisions of sub-section 2 of section 263 of the IT Act. Therefore, the impugned order is to be quashed as not maintainable.*

3. *The Ld. Pr. CIT ought to have known that the expenditure incurred towards agricultural activity relates to the produce raised and utilized for feeding the orphan boys & girls residing in the boarding home was not but expenditure incurred towards the objects of the Assessee Trust which cannot be objected in any manner.*
4. *The Ld. Pr. CIT ought to have known that similar agricultural expenditure was accepted by AO in the previous years, as well as in the current year, as it relates to the main objects of the society, under such circumstances when AO after due application of mind has allowed the expenditure, then such decision cannot be termed as erroneous causing prejudice to the revenue, to initiate action U/s. 263 of the IT Act.*
5. *For these and other reasons that are to be urged at the time of hearing of the appeal the appellant prays that the order passed by the Ld. Pr CIT is erroneous both on facts and as well as in law therefore the same needs to be set aside in the interest of justice.”*

4. Before us, the Ld. AR submitted that the agricultural activity is an incidental activity towards attaining the main objects by the assessee-society. He also vehemently argued that the FCRA expenses are verified by the Home Ministry based on the submissions made to the Home Ministry every year. The Ld. AR also argued that the agricultural produce from 44 Acres of land owned by the assessee in Utasamudram and Seethanagaram villages in West Godavari District was being used for feeding the boys and girls in the orphanages run by the assessee-society. Ld. AR also argued that if the own agricultural produce is not used for feed the boarding homes, the assessee should have purchased the

required material for feeding the orphans in the orphanages. The Ld. AR also relied on the following cases viz., (1) Addl CIT vs. Surat Art Silk Cloth Manufacturers Association [1978] 121 ITR 1 (SC); (2) CIT vs. Social Service Centre [2001] 250 ITR 39 (Andhra Pradesh); (3) DCIT vs. Wood Stock School [2019] 103 taxmann.com 349 (Delhi-Trib.) and (4) DCIT vs. JMJ Education Society [2021] 128 taxmann.com 315 (Bangalore-Trib.). Per contra, the Ld. DR invited our attention to page no.27 of the paper book where the agricultural income of Rs. 6,55,280/- is shown under Indian Transactions. He also referred to page 28 of the paper book where the similar agricultural income was received by the assessee with respect to foreign transactions. The Ld. DR also referred to page 33 of the paper book where a total of agricultural income received from various places aggregating to Rs. 6,55,280/- is displayed. The Ld. DR argued that the places mentioned by the Ld. AR such as Utasamaduram and Seethanagaram villages are not appearing in the table in paper book page no.33. He therefore pleaded that the order of the Ld. CIT(E) be upheld.

5. We have heard the rival contentions and verified the records produced before us and the orders of the authorities below. We find force in the arguments of the Ld. AR wherein he submitted a letter which

is reproduced in page 51 of the paper book stating that the amount of Rs. 11 lakhs may be used for the cultivation of Paddy for cultivation of paddy for orphanage at Allipalli. We also observed from the paper book the arguments of the Ld. DR with respect to pages 33 and 34 of the paper book where the agricultural income belongs to the Indian transactions and does not belong to the foreign transactions of the assessee. The observation of the Ld. CIT (E) is that no income is shown under the foreign transaction receipts and payments accounts furnished by the assessee. Based on the submissions of the Ld. AR, we find that the agricultural produce of the Utasamudram and Seethanagaram villages are being used for the feeding of boys and girls in the orphanages. This being a social and charitable activity where the assessee is exploiting his own natural resources, we set aside the order of the Ld. CIT (E) and allow the appeal of the assessee.

6. In the result, appeal of the assessee is allowed.

Pronounced in the open Court on the 07<sup>th</sup> April, 2022.

Sd/-  
(DUVVURU R L REDDY)  
Judicial Member

Sd/-  
(S. BALAKRISHNAN)  
Accountant Member

Dated: 07<sup>th</sup> April, 2022.

OKK

*Copy to:*

1. *The Assessee: Roman Catholic Diocese of Eluru, H.No.12-103, Bishops House, Cathedral Road, Xavier Nagar, Eluru, West Godavari, Andhra Pradesh – 534007.*
2. *The Revenue: Asst. Commissioner of Income Tax (Exemption), Vijayawada, Andhra Pradesh.*
3. *The CIT (Exemptions), Hyderabad.*
4. *Principal Commissioner of Income Tax*
5. *The D.R., ITAT, Visakhapatnam.*
6. *Guard file.*

By order

Sr. Private Secretary,  
ITAT, Visakhapatnam.