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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **ITA 679/2005**

**DIRECTOR OF INCOME TAX** ..... Appellant  
Through : Ms. P.L. Bansal, Ms. Sonia Mathur,  
Advocates

versus

**GURU NANAK FOUNDATION** ..... Respondent  
Through : Mr. Pradeep K. Bakshi, Mr. Rajat,  
Advocates

**CORAM:**  
**HON'BLE MR. JUSTICE T.S.THAKUR**  
**HON'BLE MR. JUSTICE J.M. MALIK**

**ORDER**  
**22.03.2006**

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The Income Tax Appellate Tribunal has, while allowing the appeal filed by the assessee and granting registration to it in terms of Section 11(2) of the Income Tax Act, 1961, clearly recorded a finding that the accumulated amount had been spent by the assessee for purchase of land for setting up a school. The Tribunal has, in this connection, referred to the payment of earnest money of Rs.1 lakh by a bank draft on 27th March,1997 and the purchase of the property in May, 1997 in terms of a conveyance deed which was placed on record. The Tribunal has, on that finding, reversed the view taken by the Assessing Officer and the CIT (Appeals) and held that the accumulation was bona fide and the refusal of registration to the



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assessee unjustified. The Tribunal has, in this regard, observed :

“Even otherwise, when it was pointed out that the Resolution dated 3rd June 1997 was vague, the Executive Council passed another Resolution by way of clarification, clarifying the income of Rs.34,93,691/- was being accumulated for the specific purpose of purchasing land for setting up a secondary public school. When this clarification was filed with the Assessing Officer, he refused to accept the same on the ground that it was too late to do so. This action of the Assessing Officer was not justified. He overlooked that in both the quantum of income sought to be accumulated was the same. The assessee has in fact finalized the purchase of the land in March 1997 itself and as shown by the clarificatory Resolution an earnest money of Rs.1 lac was paid by demand draft on 27.3.97 itself which is within the relevant accounting year. The land was actually purchased in May 1997 (copies of the conveyance deed filed). This fact also finds a mention in the clarificatory Resolution. The purchase of the land was only a means of achieving the objective of the assessee for which specific power has been taken in clause (x) of the Memorandum of Association. Thus, the bona fide of the accumulation or the purpose for which the income was accumulated are beyond question. The accumulated amount has also been invested for the purpose for which it was accumulated.”

It is, in the light of the above finding, academic now to consider whether there was a possibility of the accumulated amount being utilized for a non-charitable purpose. The fact of the matter is that the accumulated amount has already been utilized by the trust for a purpose which is admittedly charitable.



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No substantial question of law arises for our consideration in this appeal which fails and is hereby dismissed.

T.S. THAKUR, J

J.M. MALIK, J

MARCH 22, 2006  
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