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

+ ITA 320/2009

THE COMMISSIONER OF INCOME TAX Appellant
Through Ms. Rashmi Chopra, Adv.

versus

VIRENDRA BHATNAGAR SANSTHAN Respondent
Through Mr. Mohit Jolly, Advocate

+ ITA 792/2009

THE COMMISSIONER OF INCOME TAX Appellant
Through Ms. Rashmi Chopra, Adv.

versus

VIRENDRA BHATNAGAR SANSTHAN Respondent
Through Mr. Mohit Jolly, Advocate

CORAM:

**HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE R.V.EASWAR**

ORDER

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03.02.2012

1. Revenue, by these appeals under Section 260A of the Income Tax Act, impugns the order dated 22nd February, 2008 passed by the Income Tax Appellate Tribunal (tribunal, for short) in ITA Nos. 2090 & 2091/Del/06 in the case of M/s Virendra



Bhatnagar Sansthan. The appeals pertain to the assessments for the years 2001-02 and 2002-03. The tribunal in the present case has followed its earlier order in the case of Rajinder Nagar Education Society.

2. One V.K. Bhatnagar was searched and a block assessment order for the period 1989-90 to 1999-2000 was passed. In the said block assessment order, several allegations were made against V.K. Bhatnagar.

3. Said V.K. Bhatnagar is involved in the management and is associated with the respondent/assessee.

4. The Assessing Officer in the case of the respondent assessee has passed a cryptic and short assessment order relying upon the observations made in the block assessment order. The Assessing Officer held that there was infringement of Section 13 and therefore, the respondent society was not entitled to the benefit under Section 11 of the Act.

5. In the first appeal, CIT(Appeals), held to the contrary and accepted the stand of the respondent/assessee.

6. The tribunal, as noticed above, has followed its order in the case of Rajinder Nagar Education Society which also appears to be another society which was under the management and associated with V.K. Bhatnagar. The Revenue



in the case of Rajinder Nagar Education Society did not file further appeal (It is stated that due to low tax effect).

7. It appears that similar orders were passed by the Assessing Officer rejecting the exemption under Section 11 on account of violation under Section 13 in the case of Nav Manav Sansthan and Manav Siksha Samiti. Revenue had preferred ITA Nos. 899/2008 and 879/2008 in this Court. The two appeals were dismissed, inter alia, holding that the tribunal was right in observing that the Assessing Officer had failed to conduct necessary enquiries to justify and deny exemption under Section 11. It was held that the Assessing Officer has made vague observations on the basis of block assessment proceedings overlooking that the factual matrix in each assessment year has to be considered independently.

8. Revenue, against the decision of this Court dismissing the ITA No. 899/2008 in the case of Manav Siksha Samiti, had preferred an SLP, which had been dismissed by the Supreme Court vide order dated 6th May, 2011.

9. We have examined the assessment orders passed in these two appeals and compared the same to the assessment order passed in the case of Manav Siksha Samiti. They are identical and suffer from the same flaws and defects, which were



noticed in the case of Manav Shiksha Samiti. The Assessin
Officer in the assessment orders has merely referred and relied
upon vague observations and the block assessment order. He
did not deal with the factual matrix, irregularities and defects in
the accounts for the assessment years in question. The two
assessment years were not subject matter of the block
assessment order. In case there was any violation and
infringement of Section 13 of the Act in the years in question, the
same should have been brought out and specifically stated. We
do not find any distinguishing factor or reason not to follow the
earlier orders in ITA Nos. 899/2008 and 879/2008.

10. In these circumstances, we do not think that any
substantial question of law arises in the present appeals, and
the same are accordingly dismissed.


SANJIV KHANNA, J.


R.V. EASWAR, J.

FEBRUARY 03, 2012
'raj'/VKR
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