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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ ITA 151/2022 & CM APPL.22655/2022

THE COMMISSIONER OF INCOME
TAX –EXEMPTION

..... Appellant

Through: Mr.Ruchir Bhatia, Advocate.

versus

GS1 INDIA

..... Respondent

Through: Mr.Rishabh Sancheti, Advocate with
Mr.Padma Priya and Ms.Saloni
Bhandari, Advocates.

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Date of Decision: 12th May, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

MANMOHAN, J (Oral):

1. Present Appeal has been filed challenging the Order dated 16th January, 2019 passed by Income Tax Appellate Tribunal ('ITAT') in ITA No. 3615/Del/2015 for the Assessment Year 2010-11. In the present appeal the following questions of law have been raised:-

“2.1 Whether on the facts and in the circumstances of the case and in law, Id. ITAT has erred in granting the assessee the benefit of section 11 and 12 of the Income Tax Act, 1961 ignoring the fact that the activities are commercial in nature and cannot be held to be charitable in view of the proviso (ii) to section 2(15) of the Act?”



2.2 Whether on the facts and in the circumstances of the case and in law, ld. ITAT has erred in allowing the claim of accumulated funds of Rs.5,98,77,553/- U/s 11 (2) in absence of benefit of exemption U/s 11 and 10(23) of the Act?

2.3 Whether on the facts and in the circumstances of the case and in law ld. ITAT has erred in allowing the assessee claim for application of income on the account of depreciation, such claim being consequential in nature of allowance of benefit of exemption under section 11 and 12 of the Act to the Assessee?"

2. Learned counsel for the Appellant fairly admits that the first question of law is covered by the decision of this Court in ITA 333/2018 in favour of the assessee. He also admits that the second question of law is a consequential question of law and accordingly, the same stands covered by the aforesaid judgment.

3. Learned counsel for the appellant further admits that the third proposed question of law is also covered by the decision passed by the Supreme Court in *Commissioner of Income Tax-III, Pune v. Rajasthan & Gujarati Charitable Foundation Poona, [2018] 402 ITR 441 (SC)*.

4. Consequently, this Court is of the view that no substantial question of law arises for consideration.

5. In view of the aforesaid, the present appeal and application are dismissed.

MANMOHAN, J

DINESH KUMAR SHARMA, J

MAY 12, 2022
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