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

+ ITA 137/2021

COMMISSIONER OF INCOME TAX Appellant

Through Mr.Abhishek Maratha, Sr.Standing
Counsel.

versus

FLT LT RAJAN DHALL CHARITABLE TRUST REGD.

..... Respondent

Through None

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Date of Decision: 07th February, 2022**CORAM:****HON'BLE MR. JUSTICE MANMOHAN****HON'BLE MR. JUSTICE NAVIN CHAWLA****J U D G M E N T****MANMOHAN, J: (Oral)****C.M.No.27246/2021**

Keeping in view the averments in the application, the delay of 47 days in filing the appeal is condoned.

Accordingly, the application stands disposed of.

ITA No.137/2021

1. The appeal has been heard by way of video conferencing.
2. Present appeal has been filed challenging the order dated 28th August, 2019 passed by Delhi Bench 'B' of Income Tax Appellate Tribunal in ITA No. 4257/De1/2016 for Assessment Year 2012-13.



3. Learned counsel for the Appellant submits that the Tribunal erred in granting the exemption under Sections 11 and 12 of the Income Tax Act, 1961 (hereafter referred to as the 'Act').
4. He submits that the Tribunal erred in ignoring the fact that the activities of the assessee are not the activities done for 'charitable purpose' according to the Section 2(15) of the Act, since they are of a purely commercial nature.
5. Learned counsel for the Appellant submits that the Tribunal erred in overlooking the fact that the act of transfer of the management and control of Rajan Dhall Hospital, Vasant Kunj, Delhi vide 'Operational and Management Agreement with M/s Fortis Hospital Pvt. Ltd. existing absolutely for commercial purposes is violative of Section 11 of the Act.
6. Upon a perusal of the paper book, this Court finds that the Tribunal as the last fact finding authority has held that the Revenue had failed to establish that the said activities had been undertaken by the Respondent only in the Assessment Year under consideration. In fact, the said activities have been undertaken by the respondent right from the year 2007-08.
7. A perusal of the paper book also reveals that for the earlier and subsequent Assessment Years, exemptions have been allowed in the similar circumstances.
8. On 23rd August, 2021, this Court had observed that the impugned order passed by the ITAT suffers from no perversity as it abides by the principle of consistency and uniformity by following orders passed in the earlier and subsequent Assessment Years i.e. Assessment Years 2007-08, 2008-09, 2009-10, 2011-12, 2013-14 and 2014-15. However, at that stage, learned counsel for the Appellant had prayed for some time to obtain



instructions and file additional documents.

9. Though, learned counsel for the Appellant states that he has filed the additional documents, however, the same are not on record. In any event, in view of the principle of consistency and uniformity, this Court is of the view that no substantial questions of law arises for consideration in the present case.

10. Accordingly, the present appeal is dismissed on the ground of consistency and uniformity.

MANMOHAN, J

NAVIN CHAWLA, J

FEBRUARY 07, 2022
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