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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ ITA 289/2025
COMMISSIONER OF INCOME TAX (EXEMPTIONS)

.....Appellant
Through: Mr. Shlok Chandra Sr. SC, Mr. Naincy Jain, Ms Madhavi Shukla, Jr. SC, Mr. Kanav Singh and Mr. Parikshit Singh Bhati, Advocates

versus

THE TRAINED NURSES ASSOCIATIONS OF INDIA
.....Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE VINOD KUMAR

ORDER
11.08.2025

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CM APPL. 48979/2025

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CM APPL. 48977/2025, CM APPL. 48978/2025

3. These are two applications seeking condonation of 30 days delay in filing and also 123 days delay in refiling the appeal.
4. For the reasons stated in the applications, we condone the delay in refiling as well as the delay in filing the appeal.
5. Accordingly, the applications are disposed of as allowed.



ITA 289/2025

6. This appeal has been filed by the Revenue challenging the order of the Income Tax Appellate Tribunal dated 05.09.2024 in ITA No. 1002/DEL/2022, whereby the Tribunal has allowed the appeal filed by the Assessee by stating in paragraph 13 as under :

“13. The AO has made the adequate enquiry and accepted the return of the assessee. The Ld. CIT (Exemption) could not impose their views, when the plausible view has been taken by the AO. Every loss of Revenue as a consequence of an order of the AO cannot be treated as prejudicial to the interest of Revenue. As regards as second issue with the respect of foreign contribution the case was not selected for scrutiny for that point because the case of assessee was selected only for limited scrutiny. The AO had no jurisdiction to discuss this issue in the assessment proceedings. The AO has no power to extend the scope of scrutiny under limited scrutiny. When the two views were possible and AO has taken one view with which the CIT (Exemption) may not agree the said order cannot be treated as an erroneous order prejudicial to the interest of Revenue unless the view taken by AO is unsustainable. The view taken by the AO was not erroneous and prejudicial to the Revenue. The appeal of the assessee is liable to be allowed.

7. According to Mr. Shlok Chandra, the respondent herein is registered under Section 12A of the Societies Registration Act 1860. It had filed the income tax return on 31.10.2017 declaring nil income. The case was selected for limited scrutiny vide notice dated 16.08.2018 issued under Section 143(2) of the Income Tax Act, 1961. The limited scrutiny was in respect of transaction with specified persons renting the property. The Assessing Officer completed the Assessment on 05.12.2019 passed order under Section 143(3) of the Act and returned income of the respondent as



accepted.

8. He submits that the concerned Authority has invoked Section 263 of the Act and issued notice to the respondent on two aspects : (1) that the Assessing Officer has failed to examine that the rent recovered from the specified persons under Section 13(3) of the Act was in accordance with the fair market rent prevailing in the locality, (2) the Assessing Officer failed to notice foreign contribution of Rs.21,83,643/- received by the respondent Trust during the AY 2017-18.

9. The invocation of Section 263 of the Act has resulted in an order passed on 15.03.2022. The said order has resulted in an appeal filed by the respondent/assessee before the ITAT. The ITAT has held that the second issue was not the ground for limited scrutiny and hence, could not have been part of the exercise under Section 263 of the Act. On the first aspect, the ITAT held the conclusion of the Assessing Officer is a plausible view and every loss to Revenue as a consequence of an order of the Assessing Officer cannot be treated as prejudicial to the interest of the Revenue.

10. Mr. Shlok Chandra relies upon an instruction issued by the CBDT to state that though the notice under Section 143(2) is issued for limited scrutiny, the Assessing Officer with the approval of the Principal Commissioner of Income Tax is not precluded from reopening the case for complete scrutiny. In other words, it is his submission, the second aspect could have been also dealt with by the PCIT and in that sense, the invocation of 263 by the PCIT is justified on that aspect also.

11. According to him even on the first issue, the Assessing Officer has erred in not examining whether the rent recovered was the fair market rent prevailing in that locality, for the usage of specified persons.



12. Having heard, Mr. Shlok Chandra, issue notice to the respondent through all permissible modes, returnable on 08.01.2026.

V. KAMESWAR RAO, J

VINOD KUMAR, J

AUGUST 11, 2025
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