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

+ ITA 35/2025 & CM APPL. 10063/2025

COMMISSIONER OF INCOME TAX (EXEMPTIONS), DELHI

.....Appellant

Through: Mr. Abhishek Maratha, SSC,
Mr. Apoorv Agarwal, JSC, Mr. Parth
Samwal, JSC, Ms. Nupur Sharma,
Mr. Gaurav Singh, Mr. Bhanukaran
Singh Jodha, Ms. Muskaan Goel and
Mr. Kamakshraj Singh, Advocates.

versus

ICRW GROUP GRATUITY TRUST

.....Respondent

Through: Mr. Anand Chaudhuri and
Mr. Kumail Abbas, Advocates.

63

+ ITA 36/2025 & CM APPL. 10064/2025

COMMISSIONER OF INCOME TAX (EXEMPTIONS), DELHI

.....Appellant

Through: Mr. Abhishek Maratha, SSC,
Mr. Apoorv Agarwal, JSC, Mr. Parth
Samwal, JSC, Ms. Nupur Sharma,
Mr. Gaurav Singh, Mr. Bhanukaran
Singh Jodha, Ms. Muskaan Goel and
Mr. Kamakshraj Singh, Advocates.

versus

ICLEI SOUTH ASIA GROUP GRATUITY TRUSTRespondent

Through: Mr. Anand Chaudhuri and
Mr. Kumail Abbas, Advocates.

65

+ ITA 38/2025 & CM APPL. 10149/2025

COMMISSIONER OF INCOME TAX (EXEMPTIONS), DELHI

.....Appellant

Through: Mr. Abhishek Maratha, SSC,



Mr. Apoorv Agarwal, JSC, Mr. Parth Samwal, JSC, Ms. Nupur Sharma, Mr. Gaurav Singh, Mr. Bhanukaran Singh Jodha, Ms. Muskaan Goel and Mr. Kamakshraj Singh, Advocates.

versus

ICRW GROUP GRATUITY TRUSTRespondent
Through: Mr. Anand Chaudhuri and
Mr. Kumail Abbas, Advocates.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

% **19.02.2025**

CM APPL. 10063/2025 in ITA 35/2025,
CM APPL. 10064/2025 in ITA 36/2025 &
CM APPL. 10149/2025 in ITA 38/2025

1. Having heard learned counsel representing the parties and perused the averments made in the instant applications, the applications are allowed and delay of 426 days in re-filing the appeals is condoned.
2. The applications stand disposed of.

ITA 35/2025, ITA 36/2025 & ITA 38/2025

3. After hearing Mr. Abhishek Maratha, Sr. Standing Counsel representing the appellant and Mr. Anand Chaudhuri, learned counsel representing the respondent, we admit the appeals and frame the following question of law which reads as under:-

“A. Whether in the facts and circumstances of the case, the Hon'ble ITAT is correct in law by holding that the activity of the assessee is a charitable activity as per section 2(15) of the Income Tax Act, 1961 ignoring that the assessee trust has been created to discharge the statutory liability of making gratuity



payments and not for general welfare of public at large?

C. Whether in the facts and circumstances of the case, the Hon 'ble ITAT is correct in law by directed the CIT(E) to grant registration u/s 12AA ignoring that there are separate provisions in the Income Tax Act which governs the approval of gratuity funds under Rule 2(1) of the part 'C' of Fourth Schedule and the assessee may apply as per relevant provisions for approval?"

4. Issue notice to the respondent. Mr. Anand Chaudhuri, learned counsel for the respondent has put in appearance and accepts notice.
5. List for '*hearing*' on 26.05.2025.

DEVENDRA KUMAR UPADHYAYA, CJ

TUSHAR RAO GEDELA, J

FEBRUARY 19, 2025

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