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

+ **ITA 385/2023 and CM APPL. 36179/2023**

**COMMISSIONER OF INCOME TAX (EXEMPTIONS) DELHI**

..... Appellant

Through: Mr Abhishek Maratha, Sr. Standing  
Counsel with Mr Akshat Singh,  
Standing Counsel.

versus

**ALL INDIA FINE ARTS AND CRAFTS SOCIETY** ..... Respondent

Through: None.

**CORAM:**

**HON'BLE MR JUSTICE RAJIV SHAKDHER**

**HON'BLE MR JUSTICE GIRISH KATHPALIA**

**ORDER**

**19.07.2023**

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**[Physical Hearing/Hybrid Hearing (as per request)]**

1. This appeal concerns Assessment Year (AY) 2014-15.
2. *Via* this appeal, the appellant/revenue seeks to assail the order dated 14.10.2021 passed by the Income Tax Appellate Tribunal [in short, "Tribunal"].
3. Mr Abhishek Maratha, learned senior standing counsel, who appears on behalf of the appellant/revenue, says that the only issue which arises for consideration is whether the activity carried out by the respondent/assessee which, *inter alia*, involves the sale of paintings (which are stored with them and are made available pursuant to annual artists camp held annually), and also the renting of galleries to struggling artists, would fall within the purview of the proviso appended to Section 2(15) of the Income Tax Act, 1961 [in short, "the Act"].

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3.1 Mr. Maratha further submits that in case the aforementioned activity was to fall within the said proviso, and were not hit by the two exclusions given in the proviso itself in clauses (i) and (ii), then the respondent/assessee would be deprived of the benefits, which would otherwise be available under Section 11 and 12 of the Act.

3.1 In support of his submissions, Mr Maratha has relied upon the judgment of the Supreme Court rendered in *Assistant Commissioner of Income Tax (Exemptions) v. Ahmedabad Urban Development Authority* 2022 LiveLaw (SC) 865.

4. We may note that Mr Maratha also says that the aggregate receipts from the said activity in the AY in issue exceeded by Rs. 25,00,000/-, and hence, would in any event deprive the respondent/assessee of the benefits of Section 11 and 12 of the Act.

5. Mr Maratha would like to place the relevant documents before the court, which were made available to the statutory authorities.

5.1 Leave in that behalf is granted.

6. We may note that the Commissioner of Income Tax (Appeals) [CIT(A)] had partly allowed the appeal of the respondent/assessee *via* order dated 18.12.2017.

6.1 Aggrieved by the said order, the appellant/revenue had carried the matter in appeal to the Tribunal.

6.2 The respondent/assessee, however, did not enter appearance before the Tribunal.

6.3 The Tribunal, *via* the impugned order, has sustained the order of the CIT(A).



7. In order to hasten the proceedings, we are issuing notice to the respondent/assessee.

7.1 Notice shall issue *via* all modes, including e-mail.

8. List the appeal on 29.11.2023.

**RAJIV SHAKDHER, J**

**GIRISH KATHPALIA, J**

**JULY 19, 2023 / tr**

*Click here to check corrigendum, if any*

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