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

+ **ITA 430/2023**

COMMISSIONER OF INCOME TAX EXEMPTIONS DELHI

..... Appellant

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

versus

BALAJI MEDICAL AND DIAGNOSTIC RESEARCH CENTRE

..... Respondent

Through: Mr Neeraj Jain with Mr Aniket D.
Agrawal, Ms Manisha Sharma, and
Mr Abhisek Singhvi, Advocates.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MR JUSTICE GIRISH KATHPALIA

ORDER

% **07.08.2023**

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

CM No.39889/2023 [*Application filed on behalf of the appellant seeking
condonation of delay of 71 days in filing the appeal*]

CM No.39890/2023 [*Application filed on behalf of the appellant seeking
condonation of delay of 200 days in re-filing the appeal*]

1. These are applications filed by the appellant/revenue seeking
condonation of delay in filing and re-filing the appeal.
2. According to the appellant/revenue, there is a delay of 71 days in
filing and 200 days in re-filing the appeal.

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3. Counsel for the respondent/assessee says that he would have no objection if the delay is condoned.
4. Accordingly, the delay in filing and re-filing the appeal is condoned.
5. The applications are disposed of, in the aforesaid terms.

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6. This appeal concerns Assessment Year (AY) 2014-15.
7. *Via* this appeal, the appellant/revenue impugns the order of the Income Tax Appellate Tribunal [in short, “Tribunal”] dated 08.02.2022.
8. Mr Abhishek Maratha, learned senior standing counsel, who appears on behalf of the appellant/revenue, says that the only question which arises for consideration is: whether the respondent/assessee ought to have been allowed exemption under Section 11 of the Income Tax Act, 1961 [in short, “the Act”]?
- 8.1 The respondent/assessee claims that it is carrying out charitable activity. The respondent/assessee further claims that it falls within the ambit of Section 2(15) of the Act, as providing medical facilities falls within the scope of charitable activity.
9. The record shows that the respondent/assessee has been granted registration under Section 12A of the Act.
10. The respondent/assessee evidently filed a Return of Income (RoI) for the AY in issue, on 30.09.2014, wherein it declared its income as “NIL”.
11. The Assessing Officer (AO), however, concluded that the respondent/assessee was not entitled to the exemption under Section 11 of the Act, for the reason that it had executed a service agreement with Max



Health Care Institute Ltd. [hereafter referred to as, “MHCIL”].

12. According to the counsel for the respondent/assessee, every aspect concerning the management and operations was carried out with the assistance of MHCIL.

13. Unfortunately, the service agreement has not been placed on record by the appellant/revenue.

14. Mr Maratha says that the service agreement and all the relevant records necessary for the progress of the appeal, will be placed on record within the next two weeks.

15. At Mr Maratha’s request, list the appeal on 22.09.2023.

16. In the meanwhile, counsel for the parties will file their written submissions, not exceeding three pages each, at least five days before the next date of hearing.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

AUGUST 7, 2023 / tr

[Click here to check corrigendum, if any](#)