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

+ **ITA 538/2022 & CM Nos.54834-35/2022**

COMMISSIONER OF INCOME TAX
(EXEMPTIONS) DELHI

..... Appellant

Through: Mr Abhishek Maratha, Sr. Standing
Counsel.

versus

ERNET (INDIA)

..... Respondent

Through: Mr Rohit Jain and Mr Aniket D.
Agrawal, Adv.

+ **ITA 539/2022 & CM Nos.54839-40/2022**

COMMISSIONER OF INCOME TAX
(EXEMPTIONS) DELHI

..... Appellant

Through: Mr Abhishek Maratha, Sr. Standing
Counsel.

versus

ERNET (INDIA)

..... Respondent

Through: Mr Rohit Jain and Mr Aniket D.
Agrawal, Adv.

+ **ITA 541/2022 & CM No.54843/2022**

COMMISSIONER OF INCOME TAX
(EXEMPTIONS) DELHI

..... Appellant

Through: Mr Abhishek Maratha, Sr. Standing
Counsel.

versus

ITA 538/2022 & connected matters

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ERNET (INDIA)

..... Respondent

Through: Mr Rohit Jain and Mr Aniket D.
Agrawal, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MS. JUSTICE TARA VITASTA GANJU

O R D E R

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19.12.2022

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

CM Nos.54834-35/2022 in ITA 538/2022

CM Nos.54839-40/2022 in ITA 539/2022

CM No.54843/2022 in ITA 541/2022 [*Applications filed on behalf of the*

appellant seeking condonation of delay in filing and re-filing the appeals]

1. These are the applications moved on behalf of the appellant/revenue seeking condonation of delay in filing and re-filing the appeals.
2. Mr Rohit Jain, who appears on behalf of the respondent/assessee, says that he does not oppose the prayers made in the above-captioned applications.
3. The delay in filing and re-filing the appeals is, accordingly, condoned.
4. The applications are disposed of in the aforesaid terms.

ITA 538/2022

ITA 539/2022

ITA 541/2022

5. These appeals concern Assessment Years (AYs) 2014-15 [ITA No.538/2022]; 2015-16 [ITA No.539/2022] and 2012-13 [ITA No.541/2022].



6. In ITA No.538/2022, a challenge is laid to the order dated 27.01.2022 passed by the Income Tax Appellate Tribunal [in short, “Tribunal”], while in ITA No.539/2022, the order dated 08.07.2021 is assailed. Likewise, in ITA No.541/2022, the order dated 26.08.2020 passed by the Tribunal is assailed.

7. Broadly, the issue that arises for consideration in the above-captioned appeals is as to whether, the income of the respondent (which, otherwise, has objects which are charitable in nature), earned *via* its activities, is commercial in nature.

8. Counsel for the parties inform us that the issue has attained quietus by virtue of the judgment passed by the Supreme Court in *Assistant Commissioner of Income Tax (Exemptions) v. Ahmadabad Urban Development Authority* (2022) 449 ITR 1 (SC).

9. In these circumstances, the above-captioned appeals filed by the revenue are closed.

10. Consequently, the orders passed by the Tribunal are sustained.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

DECEMBER 19, 2022

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