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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ ITA 60/2015
+ ITA 61/2015
COMMISSIONER OF INCOME TAX-1

..... Appellant
Through Mr. Kamal Sawhney, sr. standing
counsel with Mr. Raghvendra Singh
and Mr. Shikhar Garg, jr. standing
counsel

versus

ST. VASWANI EDUCATION SOCIETY

..... Respondent
Through Ms. Kavita Jha and Mr. Vivek Bansal,
Adv.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **20.05.2015**

1. The following questions of law arise for consideration :

- “(1) Whether ITAT erred in holding that the assessee was entitled for exemption under Section 11 of the Income Tax Act?*
(2) Whether the revenue is correct in contending that the assessee violated Section 13 of the Income Tax Act and was thus disentitled to the benefit of Section 11?
(3) Was the ITAT justified in directing that the addition made on account of development funds and on account programme under reconstruction and project funds were not covered under Section 11(1)(b) read with Section 12 of Income Tax Act?”

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2. In the given circumstances of the case the concerned years are AY 2001-02 (ITA No.61/2015) and AY 2002-03 (ITA No.60/2015).
 3. The findings in respect of these questions have been concurrently rendered against the revenue. The ITAT noticed specifically that the receipts were voluntary contributions and more importantly they form part of the corpus of the trust and when made the donors specifically directed their use for the said purpose. In view of these no question of law arises. We however, clarify that this question does not arise in the regular assessment. The matter has been kept open for consideration in the appeals arising from block assessment.
 4. In ITA No.60/2015 the revenue has urged another question with respect to the claim of depreciation in respect of the building constructed by the assessee. In view of the previous finding regarding the validity of the exemption under Section 11, this question does not arise for consideration.
 5. In view of the above, both the appeals are accordingly dismissed.


S. RAVINDRA BHAT, J

R.K. GAUBA, J

MAY 20, 2015

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