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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
36.
\+ **ITA 211/2016**

COMMISSIONER OF INCOME TAX (E) ..... Appellant
Through: Mr P. Roy Chaudhuri, Senior Standing Counsel with Ms Laxmi Gurung, Junior Standing Counsel.

versus

PUSHPAWATI SINGHANIA RESEARCH INSTITUTE FOR LIVER, RENAL & DIGESTIVE DISEASES ..... Respondent
Through: Mr V. P. Gupta and Mr Anunav Kumar, Advocates.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU

<u>O R D E R</u>
% **29.03.2016**

<u>CM No.11511/2016</u>

1. Allowed, subject to all just exceptions.

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2. This appeal by the Revenue is against the order dated 12th October, 2015 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No.5799/Del/2011 for the Assessment Year ('AY') 2008-09.

3. The Assessee is a company registered under Section 25 of the Companies Act, 1956 and has been running a hospital in the name of Pushpawati Singhania Research Institute for Liver, Renal & Digestive Disease (PSRI Hospital). It has been approved as a charitable institution under Section 12A

of the Act. The Assessee states that it maintains separate books of accounts for the research activity and for the activity of running the hospital.

4. The Assessee filed its return of income for AY 2008-09 showing nil income. The return was picked up for scrutiny. Four items of receipts form the subject matter of the enquiry by the Assessing Officer (AO). These were receipts from Sunflag Hospital, Shanti Mukund Hospital (SMH), from outside laboratories and from a drug store within the hospital premises run on licence basis.

5. The question urged by the Revenue in this appeal is whether the earning of income from the above four streams would disentitle it to exemption in terms of Section 11(4A) of the Act.

6. The Revenue does not dispute the above streams could be "incidental to the attainment of the objectives" of the institution. However, the Revenue states that "separate books of accounts" have not been maintained by the Assessee in respect of each such stream of activity.

7. The case of the Assessee, on the other hand, which has been accepted by the ITAT, is that separate ledgers have been maintained for of the above streams from which the income therefrom can be ascertained.

8. The ITAT has, in the impugned order, while reversing the decision of the AO and the Commissioner of Income Tax (Appeals), accepted the case of the Assessee that the activities in question were incidental to the main

activity of the hospital itself and were not undertaken with a profit earning motive. The ITAT also noticed that for the AYs earlier and later to the AY in question, the AO accepted the Assessee's case and allowed its claim for exemption. In particular, the ITAT has accepted the contention of the Assessee that it maintained separate ledgers for each of the sources of income and thereby fulfilled the requirement of Section 11(4A) of the Act.

9. Having heard the learned counsel for the parties, the Court is of the view that the view taken by the ITAT on the basis of the record is a plausible one and does not give rise to any substantial questions of law. The appeal is accordingly dismissed.

S.MURALIDHAR, J

VIBHU BAKHRU, J

MARCH 29, 2016
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