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

37.

\+ **ITA 229/2016**

COMMISSIONER OF INCOME TAX (EXEMPTION) ..... Appellant

Through: Mr P.Roy Chaudhuri, Senior Standing Counsel with Ms Lakshmi Gurung, Junior Standing counsel.

versus

TRUST FUND FOR EMPOWERMENT OF PERSONS WITH DISABILITIES ..... Respondent

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU

O R D E R

% **04.04.2016**

CM No.12382/2016

1. Allowed, subject to all just exceptions.

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2. This is an appeal against the order dated 16th September, 2015 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No.924/Del/2013 for the Assessment Year ('AY') 2008-09.

3. The short point sought to be urged by the Revenue in the present appeal is whether the Form No.10 which was to be produced by the Respondent Assessee within the time limit stipulated in Section 139(1) of the Act could have been filed before the CIT(A).

4. The ITAT has in the impugned order examined the circumstances under which the Respondent could not produce any evidence of filing the Form No. 10 before the assessment was completed even though it was, along with a Resolution dated 9th March 2009, filed with the return of income. The view taken by the ITAT that a stipulation as to limitation in a form under the Income Tax Rules cannot be equated to a provision in the Income Tax Act 1961 ('Act') which is silent on that aspect appears to be perfectly legal. The fact that only by a recent amendment to Section 11(2) of the Act with effect from 1st April 2016 such a time limit has been provided, further supports the view of the ITAT. This issue, therefore, does not give rise to any substantial question of law.

5. The other issue whether the assessment proceedings could, in the facts of the case, be said to be completed is left open for decision in an appropriate case.

6. The appeal is dismissed.

S.MURALIDHAR, J

VIBHU BAKHRU, J

APRIL 04, 2016
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