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

\+ ITA 517/2016

COMMISSIONER OF INCOME TAX (EXEMPTION) .... Appellant
Through: Mr. P. Roy Chaudhuri, Sr. Standing Counsel.

versus

TARUN BAL SHIKHA SAMITI ..... Respondent
Through

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE NAJMI WAZIRI

O R D E R

% **03.08.2016**

CM No. 27705/2016 (Exemption)

1. Allowed subject to all just exceptions.

CM No. 27707/2016 (condonation of delay in re-filing) & 27706/2016 (condonation of delay in filing)

2. For the reasons given in the applications the delay in filing and re-filing of the appeal is condoned.

3. The applications are allowed.

ITA No. 517/2016

4. This appeal by the Revenue is directed against the order dated 27th November, 2015 passed in the Income Tax Appellate Tribunal ('ITAT') in ITA No. 2552/Del/2013 relating to the assessment year 2007-08.

5. The only question urged is whether the ITAT was in error in setting aside the order passed by the CIT(A) under Section 263 of the Income Tax Act, 1961 on 12th March, 2012 holding that the assessment order dated 29th December, 2009 passed by the Assessing Officer ('A.O.') was prejudicial to the interest of the Revenue.

6. As rightly pointed out by the ITAT, the CIT(A) should have had some materials to enable him to form a prima facie view. It appears that the view of the CIT(A) was merely a different one on the same materials. There was no justification for the CIT(A) to have concluded on the existing materials that the order of the AO was erroneous or prejudicial to the interests of the Revenue. No substantial question of law arises for consideration.

7. The appeal is, accordingly, dismissed.

S.MURALIDHAR, J

NAJMI WAZIRI, J

AUGUST 03, 2016/kk