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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ ITA 611/2016, C.M. APPL.30070/2016
COMMISSIONER OF INCOME TAX (E) Appellant
Through : Sh. P. Roychoudhuri, Sr. Standing
Counsel.

versus

SURAJ MAL MEMORIAL EDUCATION SOCIETY..... Respondent
Through : Sh. Salil Aggarwal and Sh. Ravi Pratap
Mall, Advocates.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE DEEPA SHARMA

% **ORDER**
19.08.2016

The revenue claims to be aggrieved by the order dated 02.03.2016 of the Income Tax Appellate Tribunal (ITAT) allowing the assessee's appeal whereby the revisional order of the Commissioner of Income Tax (Exemption) [hereafter "CIT(E)"], exercising its powers under Section 263 of the Income Tax Act, 1961 [hereafter "the 1961 Act"] was set aside. Essentially, three questions are sought to be urged on which the revenue submits that the ITAT fell into error.

The first question is with respect to the corpus donations received by the assessee – a charitable organization (Educational Society) and a beneficiary under Section 11(1)(d) of the 1961 Act. The second question pertains to the "room rents" received and concededly declared in its assessment, and the third pertains to the

land purchased at Bahadurgarh by the assessee.

It is noteworthy that in the course of original proceedings, the Assessing Officer (AO) had framed scrutiny assessment under Section 143(3) of the 1961 Act after going over the questions which were sought to be reopened in revisional proceedings on the ground that the assessment order was both erroneous and prejudicial to the interest of the revenue.

The CIT (E), exercising revisional power, brushed aside the assessee's computations and finalised assessments by bringing to tax the amounts under the said three heads.

The ITAT has carefully considered all the three issues. It was noticed that in the course of the assessment itself as well as later, the assessee had provided all details of the donors in terms of the PAN numbers, names, addresses etc.

In these circumstances, the ITAT concluded – contrary to the CIT(E)'s view, that there was no question of inadequate enquiry on the part of the AO who appears to have gone into the aspect and was, therefore, satisfied. With respect to room rents, the ITAT adopted a view – which in our opinion cannot but be sound, i.e. having regard to the previous and consistent view of the revenue on this aspect. So far as the third question, i.e. the value of the purchase of the property is concerned, the CIT(E) was unduly swayed by a primary examination of the land value in the surrounding and adjacent areas. The ITAT concluded that this was not only impermissible but perhaps not within the domain of the revenue authorities in income tax proceedings.

We fully endorse this view. It is well recognized that the

narrow matrix in which the AO proceeds to examine a return is the application of provisions of 1961 Act. It is rarely, if ever, in the absence of surrounding and objective circumstances, pointing to extremely suspect value, that the AO would bother himself with such issues. In fact Section 50C of the 1961 Act is a special provision which visualizes some such issues.

Having regard to the circumstances of this case, we are satisfied that no question of law arises for consideration. The appeal is, therefore, dismissed along with the pending application.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

AUGUST 19, 2016

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