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

+ **ITA 945/2016 & CM Nos.47870-71/2016**

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

Versus

COSTAOM OFFICER Respondent
Through: None.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **23.12.2016**

CM No.47870/2016 (for exemption)

1. Allowed, subject to all just exceptions.
2. The application stands disposed off.

CM No.47871/2016 (for re-filing)

3. This application seeks condonoation of delay, which is stated to be of 50 days in re-filing the appeal. For the reasons stated in the application, the same is allowed and the appeal is taken on record.
4. The application stands disposed off.

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5. Learned counsel for the appellant requests that the cause title be permitted to reflect the correct name of the parties. Liberty granted. The correct memo of parties be filed within a week, if not filed already.
6. The Revenue is aggrieved by the order of the Income Tax Appellate Tribunal (ITAT), whereby its appeal was rejected. It urges that the

impugned order inasmuch it holds that the assessee was entitled to the exemption under Section 11 of the Income Tax Act, 1961 (hereinafter to be referred as 'the Act') is erroneous.

7. The assessee had claimed/established during all previous years that it was a charitable organization under Section 11 of the Act by virtue of the definition under Section 2(15) of the Act. The Revenue contended that some activities of the assessee were aimed at garnering profit and, therefore, it was disentitled to Section 11 benefit. The ITAT noticed that in respect of Assessment Year 2008-09, appeals preferred by the Revenue were rejected. It, therefore, followed the same reasoning for the years under question i.e., 2010-11. Furthermore, this Court is of the opinion that in terms of the judgment and order of this Court reported as *India Trade Promotional Organization Vs. Director General of Income Tax (Exemptions) & Ors.*, [2015] 371 ITR 333 (Delhi), the activities of the assessee cannot be said to be driven for profit. On the other question, i.e., salary paid to the certain individuals alleged to be the relatives, the same was disallowed as an expense by the ITAT in view of its previous rulings. For these reasons, no substantial question of law arises.

8. Having regard to the consistent views of the ITAT, which are in accordance with law, the appeal is dismissed.

S. RAVINDRA BHAT, J.

NAJMI WAZIRI, J.

DECEMBER 23, 2016/sb