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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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\+ **ITA 484/2015**

DEVKI DEVI FOUNDATION ..... Appellant
Through: Mr. M.S. Syali, Senior Advocate with Mr. Mayank Nagi, Ms. Husnal Syali, Mr. Tarun Singh and Mr. Anand Chaudhari, Advocates.

versus

DIRECTOR OF INCOME TAX [EXEMPTIONS] ..... Respondent
Through: Mr. P. Roy Chaudhuri, Senior Standing counsel with Ms. Lakshmi Gurung, Junior standing counsel and Mr. Ishant Goswami, Advocates.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU

O R D E R
% **15.02.2016**

1. This appeal under Section 260A of the Income Tax Act, 1961 ('Act') by the Appellant-Assessee, Devki Devi Foundation, is directed against the impugned order dated 31st March 2015 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 1027/Del/2012. The said appeal before the ITAT was directed against the order passed by the Director of Income Tax (Exemptions) ['DIT (E)'] dated 28th December 2011 cancelling the registration granted to the Appellant under Section 12A of the Act since the

date of inception of the Appellant Trust.

2. On 29th July 2015 while admitting this appeal, the Court framed the following questions for determination:

> (i) Whether the impugned order passed by the ITAT is sustainable in law?
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> (ii) Whether the IT AT was justified in law in upholding the order cancelling registration of the Appellant, *inter* alia, on the grounds extraneous to the show-cause notice?
>
> (iii) Whether the order passed by ITAT and DIT(E) were in violation of principles of natural justice?

3. One of the principal grievances of the Appellant both before the ITAT and this Court is regarding violation of principles of natural justice and denial of sufficient opportunity to the Appellant in response to the show cause notice ('SCN') issued on 18th November 2011. In particular it is pointed out that whereas a reply of the Assessee was filed on 27th December 2011, the impugned order under Section 12AA (3) of the Act was passed by the DIT (E) just one day later on 28th December 2011 without dealing with the reply filed by the Petitioner and the documents enclosed therewith.

4. The further ground urged before this Court as regards the impugned order of the ITAT is that apart from the reasons stated in the SCN and the order of

the DIT (E), the ITAT has adverted to other reasons which do not find place in the said SCN or order of the DIT. This concerned the Assessee not having achieved the objects for which the Trust was formed in terms of the research activities undertaken by the Assessee.

5. It was submitted by Mr. M.S. Syali, learned Senior counsel appearing for the Appellant, that the Appellant would be satisfied if a fresh hearing will be given to the Appellant-Assessee by the ITAT. He submitted that comprehensive submissions could be made before the ITAT both by the Assessee as well as the Revenue on all the grounds/pleas raised in the Assessee's appeal.

6. Mr. P. Roy Chaudhuri, learned Senior standing counsel for the Revenue states that the Revenue would have no objection if the matter is remanded to the ITAT for fresh determination of all the pleas raised in the Assessee's appeal before the ITAT.

7. In that view of the matter, this Court sets aside the impugned order dated 31st March 2015 passed by the ITAT and restores ITA No. 1027/Del/2012 to the file of the ITAT for a fresh decision in accordance with law. It will be permissible for the Appellant as well as the Revenue to file their respective

written notes of submissions in advance of the date of hearing of the appeal with reference to the grounds raised in the appeal and the documents already on record. In rendering a fresh decision in the appeal, the ITAT will be uninfluenced by its earlier which has been set aside by this order.

8. The appeal is disposed of in the above terms.

CM APPL 29235/2015 (filed by Intervener u/O 1 R 10A CPC)

9. In view of the dismissal by this Court on 18th January 2016 of CM Application No. 1767 of 2016 for impleadment, this application is dismissed.

S. MURALIDHAR, J

VIBHU BAKHRU, J

FEBRUARY 15, 2016
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