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

\+ **ITA 406/2017**

CHIEF COMMISSIONER OF INCOME TAX -(EXEMPTIONS)

..... Appellant

Through: Mr. Zoheb Hossain, Senior Standing Counsel

versus

SOCIETY FOR PROMOTION OF INDIAN CLASSICAL MUSIC AND CULTURE AMONGST YOUTH (SPIC MACAY)

..... Respondent

Through:

CORAM: JUSTICE S.MURALIDHAR
JUSTICE CHANDER SHEKHAR

O R D E R

% **16.05.2017**

CM No.18564/2017 (for delay)

1. For the reasons stated therein, the application is allowed. The delay of 37 days in re-filing the appeal is condoned.

ITA No.406/2017

2. This is an appeal by the Revenue against the order dated 29th September, 2016 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No.6120/Del/2015 for the Assessment Year ('AY') 2011-2012.

3. The question sought to be urged by the Revenue is whether the Respondent/Assessee is a charitable organisation and could be said to be 'doing business' to attract the mischief of amended Section 2(15) of the

Income Tax Act, 1961.

4. While the Commissioner of Income Tax (Appeal) [CIT(A)] appears to have also proceeded on the fact that for the earlier AYs the contention of the Revenue stood negated, the ITAT in the impugned order examined it on merits and has returned certain factual findings. The finding was that mere receipt of fees during the AY under consideration by the Assessee did not mean that it was involved in 'trade, commerce or business'. Further, the mere deduction of tax at source could not lead to conclusion that receipt was taxable in nature.

5. Having examined the impugned order of the ITAT and having considered the submission of learned counsel for the Revenue, the Court is not persuaded that the impugned order of the ITAT suffer from any infirmity or gives rise to any substantial question of law.

6. The appeal is dismissed.

S.MURALIDHAR, J

CHANDER SHEKHAR, J

MAY 16, 2017
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