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

\+ **ITA No. 614/2017**

COMMISSIONER OF INCOME TAX, (EXEMPTIONS) ..... Appellant

Through: Mr. Rahul Kaushik, Senior Standing Counsel and Ms. Bhuvneshwari Pathak, Advocate.

versus

DR. BHAI MOHAN SINGH FOUNDATION ..... Respondent

Through: None.

CORAM: JUSTICE S. MURALIDHAR
JUSTICE PRATHIBA M. SINGH

O R D E R

% 16.08.2017

1. The matter is taken up today as 14th August, 2017 was declared a holiday on account of Janmashtami.

C.M. No. 28691/2017 (exemption)

2. Allowed, subject to all just exceptions.

ITA No. 614/2017

3. This is an appeal under Section 260A of the Income Tax Act, 1961 (‘Act’) by the Revenue against the order dated 11th January, 2017 passed by the Income Tax Appellate Tribunal (‘ITAT’) in ITA No. 2803/Del/2013 for the Assessment Year (‘AY’) 2007-08.

4. The Revenue is aggrieved by the concurrent orders of the Commissioner of Income Tax (Appeals) [‘CIT (A)’] and ITAT with regard to two issues. The first issue concerns the shares held by the Assessee in the Delhi Guest House Pvt. Ltd. (‘DGHPL’). The CIT (A) and the ITAT held that as a result of a dispute which arose amongst the family members of Dr. Bhai Mohan Singh, the Assessee was restrained from converting the shares held in DGHPL to other permissible forms of investment before the time limit prescribed in clause (iia) of *proviso* to Section 13(1) (d) of the Act. The conversion could ultimately take place only in 2012 after the restraint was lifted. In view of the above concurrent factual finding, no question of law arises for determination on this aspect.

5. The second issue concerns the payment of Rs. 3.33 crores as charges for conversion of the property held by DGHPL from leasehold to freehold. This issue is linked with the earlier issue regarding the shareholding in DGHPL. The conversion of the property from lease hold to free hold, of the entity whose shares were held by the Assessee could not in the circumstances be said to be application of income for non-charitable purposes. Consequently, no substantial question of law arises on this aspect as well.

6. The appeal is dismissed.

S.MURALIDHAR, J

PRATHIBA M. SINGH, J

AUGUST 16, 2017/*dk*