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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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\+ **ITA 881/2016**

COMMISSIONER OF INCOME TAX (EXEMPTIONS) ..... Appellant
Through: Mr Zoheb Hossain, Senior Standing Counsel

versus

SURAJMAL MEMORIAL EDUCATION SOCIETY ..... Respondent
Through: Mr Salil Aggarwal and Mr Madh

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE PRATHIBA M. SINGH

ORDER
% **24.07.2017**

1. On 9th May, 2017, the following order was passed:

> "2. Mr. Salil Aggarwal, learned counsel appearing for the Respondent produces before the Court a statement showing that the total application of the revenues of the Assessee-Society for the Assessment Year (AY) 2012-13 was 86.13% of its income (after excluding the expenditure incurred on the Statue of Maharaja Surajmal). Mr. Aggarwal accordingly submits that since the application of income more than 85% in terms of Section 11 (1) of the Income Tax Act, 1961, the question of denying the Assessee exemption does not arise.
>
> 3. Mr. Zoheb Hossain, learned Senior standing counsel for the Appellant seeks time to obtain instructions.
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> 4. List on 24th July 2017."

2. Mr Zoheb Hossain, Senior Standing Counsel appearing for the Revenue,

confirms that since the application of income was more than 85%, in terms of Section 11 (1) of the Income Tax Act, 1961, the question of denying the exemption to the Assessee does not arise.

3. In the circumstances, the question framed by this Court on 6th December 2016, is not required to be answered. The impugned order dated 30th May, 2016 passed by the ITAT is, therefore, maintained.

4. The appeal is dismissed.

S.MURALIDHAR, J

PRATHIBA M. SINGH, J

JULY 24, 2017
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