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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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\+ **ITA No. 583/2017**

COMMISSIONER OF INCOME TAX-(EXEMPTIONS) ..... Appellant
Through: Mr. Zoheb Hossain, Senior Standing Counsel with Mr Deepak Anand, Junior Standing Counsel

versus

MAI KAMLIWALI JAN KALYAN CHARITABLE TRUST... Respondent
Through:None

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE PRATHIBA M. SINGH

ORDER
% **31.07.2017**

C.M. No. 26994/2017 (delay)

1. The delay of 38 days in filing the appeal is condoned. The application is disposed of.

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2. The Revenue is in appeal against the order dated 3rd January, 2017 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 4762/Del/2016 for the Assessment Year ('AY') 2007-08.

3. The fact of the matter is that the reopening of the assessment of the Assessee for the AY in question was sought to be made under Section 148

of the Income Tax Act, 1961 ('Act') beyond the period of four years after the end of the AY in question. The assessment was originally completed under Section 143 (3) of the Act. Consequently, the first proviso to Section 147 of the Act was attracted.

4. A perusal of the reasons for reopening show that the Assessing Officer ('AO') merely re-examined the assessment record and came to the conclusion that income had escaped assessment. The concurrent findings of both the Commissioner of Income Tax ['CIT (A)'] and the ITAT are that reopening was not based on any fresh tangible material.

5. In that view of the matter, no substantial question of law arises for consideration in this appeal. The appeal is accordingly dismissed.

S. MURALIDHAR, J.

PRATHIBA M. SINGH, J.

JULY 31, 2017
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