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

\+ ITA 1131/2017, CM APPL.44862/2017

COMMISSIONER OF INCOME TAX-(E) ..... Appellant
Through: Mr. Ruchir Bhatia, Sr. Standing Counsel.

versus

INDIA HABITAT CENTRE ..... Respondent
Through: Mr. P. Roychoudhuri, Advocate.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SANJEEV SACHDEVA

O R D E R

% **11.12.2017**

The question in this case is whether the revisionary power, recourse to which was sought by the Revenue, was correctly exercised.

At the outset, the Court notices that there is an inordinate delay in refiling of the case - over 600 days. In any event, the main question is covered for a subsequent year, i.e., assessment years 2010-11 against the Revenue in ITA 26/2017. The Court decided that appeal on 06.02.2017 stating as follows: -

"ITA 26/2017

This is an appeal under Section 260A of the Income Tax Act, 1961 against the order dated 18.05.2016 passed by the Income Tax Appellate Tribunal in ITA No.2390/DEL/2015 pertaining to the assessment year 2010-11.

The said appeal before the tribunal was against an order of the Commissioner of Income Tax (Exemptions), New Delhi dated 27.03.2015 which he had passed in exercise of *powers under Section 263 of the said Act. One of the points raised in the appeal before the Income Tax Appellate Tribunal was that the order passed under Section 263 of the said Act was without jurisdiction inasmuch as the order passed by the Assessing Officer under Section 143 (3) of the said Act was not erroneous. The pointed issue was with regard to the principle of mutuality.*

The tribunal has examined this aspect in detail as would be evident from paragraphs 8 to 8.6 of the impugned order. The tribunal has also examined, in paragraph 8.3, the ratio of the Supreme Court decision in the case of ***CIT vs. Green World Corporation 314 ITR 81 (SC)*** *with regard to the scope and powers under Section 263 of the said Act. It was also observed that an order would be erroneous only when the assessing officer makes no enquiries during the course of the assessment proceedings. In the present case the tribunal found as a fact that the "Principle of Mutuality" had been examined threadbare by the assessing officer itself and therefore it was not a case where the Commissioner could have exercised jurisdiction under Section 263 of the said Act. In these circumstances, we do not feel that there is any substantial question of law which arises for the consideration, of this Court. The appeal is dismissed."*

For the same reasons, the present appeal does not involve any substantial question of law; it is accordingly dismissed along with pending application.

S. RAVINDRA BHAT, J

SANJEEV SACHDEVA, J

DECEMBER 11, 2017
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