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

\+ ITA 347/2018 and CM APPL. 11637/2018 & 11682/2018

COMMISSIONER OF INCOME TAX (EXEMPTION), NEW DELHI ..... Appellant

Through: Mr. Ajit Sharma and Mr. Asheesh Jain, Advocates.

versus

H.C. GUPTA EDUCATIONAL SOCIETY ..... Respondent

Through: Mr. P. Roy Chaudhari, Advocate.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

O R D E R

% **23.03.2018**

The Revenue in its appeal before this Court under Section 260A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') complains that the cancellation of Rs.37,30,000/- added by the Assessing Officer ('AO') on account of the alleged violation of Section 13(1)(d) of the Act is erroneous.

The AO brought to tax the notional interest calculated by him for an interest free loan, which the assessee gave to another Trust on the ground that the recipient Trust also comprised of the same trustees, and therefore, the transactions attracted Section 13(1)(d) of the Act.

The CIT(A) set aside the addition holding that the interest free loan was genuine, and that having regard to the objective of both societies, the mere detail that a common trustee was found to function for both of them did not attract application of Section 13(1)(d) of the Act; the Income Tax Appellate Tribunal ('ITAT') conferred with this.

This Court has considered the submissions of the Revenue. The advance given by the assessee to another charitable trust, in fact, furthered its charitable objectives.

In these circumstances, the mere fact that one or some trustees were common, did not result in the application of Section 13(1)(d) of the Act. No substantial question of law arises for consideration.

The appeal is dismissed along with the pending application.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

MARCH 23, 2018

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