$~20, 21, 25, 26

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

\+ ITA 842/2018, C.M. Appl. No. 31706-31707/2018

IILM FOUNDATION ..... Appellant

versus

ADIT (E) ..... Respondent

\+ ITA 843/2018, C.M. Appl. No. 31708-31709/2018

IILM FOUNDATION

..... Appellant

versus

ADIT (E) ..... Respondent

\+ ITA 852/2018, C.M. Appl. No. 32153-32154/2018

IILM FOUNDATION

..... Appellant

versus

ADIT (E) ..... Respondent

\+ ITA 860/2018, C.M. Appl. No. 32414/2018

IILM FOUNDATION

..... Appellant

versus

ADIT (EXEMPTION) ..... Respondent

Counsel for the Appellant:

Mr. Rohit Jain, Mr. Kunal Gokhale, Mr. Aniket D. Agrawal, Advocates, in Item 21, 22, 25 and 26

Counsel for the Respondent:

Mr.Ruchir Bhatia, Advocate in Item 20, 21, 25 and 26.

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

O R D E R

% **16.08.2018**

It is pointed out that the appellant has filed rectification applications before the Tribunal, which are pending consideration.

Learned counsel for the appellant points out that the applications for placing on record the additional documents was not adverted to and the Tribunal has summarily rejected the appeal. Besides, it is urged that the ITAT's order discloses manifest error inasmuch as the sum of Rs.16,20,000/- paid as remuneration (which was ultimately disallowed) was on erroneous basis that the payment was monthly rather than annual.

Learned counsel relied upon the record especially the order of the CIT (A) in this regard. It was further submitted that ITAT fell in error in overlooking the binding decisions, which have consistently ruled to the extent of violation of provisions of Section 13(1) of the Income Tax Act. The expenditure could be disallowed and the Assessee/Charitable Organisation taxed rather than disallowing the entire income tax on the ground that it violated the provisions of the Act.

We are of the opinion that since the Assessee/appellant has already approached the ITAT under Section 254(2), keeping in view the consistent practice of this court, having regard to the previous judgments, it will not be expedient to entertain these appeals, however we place on record the error, which the counsel pointed out with respect to the remuneration paid to Ms. Malvika Rai, that, it was not monthly but annual. The ITAT will, of course, take that also into consideration. In the event any order is made in the rectification application, which is adverse to the appellant, it would be open to it to approach afresh in appropriate proceedings, and in that event, it would also be open to the appellant to urge all the grounds to the extent they survive or urged in these appeals.

In view of the aforesaid directions, the appeals being ITA 842/2018, 843/2018, 852/2018 and 860/2018 as well as pending applications are disposed of.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

AUGUST 16, 2018
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