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

\+ ITA 463/2018 & CM APP No. 14771/2018

THE COMMISSIONER OF INCOME TAX -EXEMPTION

..... Appellant

Through: Mr.Zoheb Hossain, Sr. St. Counsel

versus

ST. STEPHEN'S HOSPITAL ..... Respondent

Through; Mr.Tarun Gulati with Ms.Rachna Yadav, Advs.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

O R D E R

% 19.11.2018

This appeal under Section 260A of the Income Tax Act, 1961 (‘Act’ for short) in the case of St. Stephen’s Hospital relates to the assessment year 2009-10 and arises from the order of the Income Tax Appellate Tribunal (‘Tribunal’ for short) dated 08.11.2017.

The Assessing Officer in the present year had followed the assessment order for the assessment year 2008-09, which was predicated on the Special Audit Report. Pursuant to the Special Audit Report, registration of the respondent-society was cancelled under Section 12AA of the Act. The cancellation was, however, struck down by the Tribunal vide order dated 11.05.2012. Revenue had thereupon preferred ITA No.37/2013 which appeal was dismissed by a detailed order dated 26.09.2013.

The Tribunal in the impugned order has primarily followed the order of the Tribunal dated 11.05.2012 in relation to assessment year 2008-09 and the order dated 26.09.2013 in ITA No.37/2013 passed by the Delhi High Court affirming the same.

Learned counsel for the Revenue while accepting the aforesaid position submits that the Assessing Officer has also recorded some additional facts. He submits that the respondent-assessee had permitted setting up of a bookstall where religious books were displayed and distributed free of cost. This contention has not been accepted by the Tribunal for several reasons including the finding that no rent was charged and that the books being displayed and distributed included other books on philosophy and moral science etc. This contention was also found to be without merit in ITA No.450/2018.

Another contention raised before us relates to the facilities in the form of Kendriya Bhandar, Mother Dairy booth, STD booth, a bank, a canteen and a cooperative store in the hospital. Opening of a Kendriya Bhandar, Mother Dairy booth, STD booth, bank, canteen or co-operative store cannot be treated as commercial activities. These facilities were necessary and required for proper functioning of the hospital and providing medical facilities to the patients. These were ancillary activities for benefit of the patients and their attendants and staff. The primary purpose and objective was to provide medical facilities and aid to patients.

Accordingly, we do not find any merit in the present appeal and hold that no substantial question of law arises for consideration.

The appeal stands dismissed.

SANJIV KHANNA, J.

ANUP JAIRAM BHAMBHANI, J.

NOVEMBER 19, 2018
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