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

\+ ITA 386/2019 & CM APPL. 17701/2019

THE COMMISSIONER OF INCOME TAX – EXEMPTION ..... Appellant

Through : Mr. Ruchir Bhatia, Sr. Standing Counsel.

versus

CONSTRUCTION INDUSTRY DEVELOPMENT COUNCIL ..... Respondent

Through : None.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE PRATEEK JALAN

O R D E R

% **15.04.2019**

Two questions urged by the Revenue, i.e, inapplicability of Section 2(15) and disallowance of Section 40(ia) of the Income Tax Act, are covered by the previous order of this court for another AY 2008-2009. In ITA No.13/2018, *Commissioner of Income Tax (Exemption) vs. Construction Industry Development Council,* the court had disposed off the appeal on 15.01.2018, observing as follows:-

"ITA No.13/2018

The Revenue's grievance in its appeal under Section 260A of the Income Tax Act, 1961 ('the Act') is that the Assessing Officer's determination that the sums received by the assessee could not be characterised as fulfilling its charitable objectives was erroneously interfered with by Income Tax Appellate Tribunal (ITAT). The assessee in this case was declared to be a

> charitable trust within the meaning of Section 2(15) of the Act, and therefore, received certification under Section 12A of the Act. For the assessment year (A.Y.) 2008-09, its returns were finalised by adding sums declared by it to be utilised for fulfilling its objects, on the ground that they were driven by profit motive. A further disallowance under Section 40(ia) of the Act was also made. The CIT(A) interfered with the AO's decision on both counts. The ITAT confirmed the Appellate Commissioner's decision. This Court notices that the impugned order of the ITAT is in tune with the decision rendered in '*India Trade Promotion Organisation v. Director General of Income Tax (Exemption) & Ors.*', W.P.(C) No.1872/2013 on 22.01.2015. As such no question of law arises and the appeal is therefore dismissed."

In the light of the above observation, both questions are covered by the previous order of this court.

No further question of law arises. The appeal and the pending application are accordingly dismissed.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

APRIL 15, 2019

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