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

\+ **ITA 651/2019**

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

Through: Mr.Ruchir Bhatia, Senior Standing Counsel for Revenue.

versus

INDIA HIV/AIDS ALLIANCE ..... Respondent

Through: None.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

<u>O R D E R</u>

% **23.07.2019**

1. The Revenue has filed the present appeal against the order dated 23rd January, 2019 in ITA No. 716/Del/2017 for the Assessment Year (AY) 2010-11.

2. The short point that is sought to be urged by the Revenue is whether the Income Tax Appellate Tribunal (ITAT) was right in holding that the activity of the Assessee did not cease to be a ‘charitable activity’ for the purposes of Section 2(15) of the Income Tax Act, 1961 (Act) because the Assessee charged a ‘management fee’ for defraying its administrative expenses.

3. In the impugned order the ITAT has noticed that the Assessee is a company registered under Section 25 of the Companies Act. It gives 85% of

the donation received by it to the Government of India for HIV Aids and only 15% of its total donation is given to other societies for awareness and treatment of poor HIV Patients. The entire amount spent by the Assessee is through societies and trusts. It also runs its own project for the welfare of HIV and AIDS patients. In the above circumstances it has been held that merely because the Assessee charges management fees to defray the administrative costs it would not make its essential activity a business activity.

4. The Court is unable to find any legal infirmity in the impugned order of the ITAT. No substantial question of law arises.

5. The appeal is accordingly dismissed.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 23, 2019
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