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

+ **ITA 1480/2018 & CM APPL. 54321/2018 (for delay)**

THE PR. COMMISSIONER OF INCOME TAX -6 Appellant

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

versus

MAX MEDICAL SERVICES PVT. LTD.

..... Respondent

Through: Mr. Rahul Chaudhary, Advocate.

+ **ITA 1487/2018 & CM APPL. 54354/2018 (for delay)**

THE PR. COMMISSIONER OF INCOME TAX -6 Appellant

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

versus

MAX MEDICAL SERVICES PVT. LTD.

..... Respondent

Through: Mr. Rahul Chaudhary, Advocate.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S.MEHTA

ORDER

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14.05.2019

1. These are appeals by the Revenue against the common order dated 13th September 2017 passed by Income Tax Appellate Tribunal ('ITAT') in ITA No. 4050 and 4051/Del/2014 for Assessment Years 2010-11 and 2011-12.

2. The common question sought to be urged by the Revenue is whether the ITAT is justified in deleting the disallowance made by the Assessing Officer ('AO') on account of the change in percentage of profit of the Assessee and M/s Devki Devi Foundation from 10% to 8%?

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3. The admitted facts are that the Assessee is engaged in a business of constructions of hospitals, leasing and sale of medical equipments and deals in chemicals, medicines and drugs. The returns filed for the AYs in question were picked up for scrutiny. One of the issues that arose was the agreement entered into between the Assessee and the aforementioned M/s Devki Devi Foundation on 10th December 2011, where the profit sharing percentage for the period of 30 years was 10%. The Assessee pointed out that for the AYs in question on account of the business exigencies the profit sharing percentage had been reduced from 10% to 8%. Although, the AO did not accept the explanation offered by the Assessee, it has been found to be acceptable both by Commissioner of Income Tax – CIT (A) in the order dated 22nd April 2014 and the ITAT in the impugned order.

4. The impugned order in fact discusses the relevant clauses of the agreement and concludes that the explanation offered by the Assessee as accepted by the CIT – A was believable.

5. The points raised against the views of the CIT – A and the ITAT are essentially factual and the Court sees no substantial question of law arising in the present appeal.

6. The appeals are accordingly dismissed. The pending applications are also dismissed.


S. MURALIDHAR, J.


I.S. MEHTA, J.

MAY 14, 2019/nd