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

\+ ITA 897/2019, CM APPL. 45154/2019, CM APPL. 45155/2019

ANGIKA DEVELOPMENT SOCIETY ..... Appellant

Through: Mr. Shashank Singh and Mr. Arjun Minocha , Advs.

versus

ASST. DIRECTOR OF INCOME TAX (EXEMPTION), INV.CIRCLE-I ..... Respondent

Through: Ms.Adeeba Mujahid, Jr. Standing counsel for Mr. Ajit Sharma, Sr. Standing counsel.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 18.10.2019

1. The appellant has preferred the present appeal against the order dated 06.06.2019 issued by the Income Tax Appellate Tribunal, Delhi Bench ("ITAT") in ITA No. 666/Del/2016 for the assessment year 2005-06. The appellant/assessee which is a registered society, claimed to have received a donation of Rs. 95,00,000/- from another non-governmental organization called Locus for Educational and Academic Research Network ("Learn"). The case of the appellant/assessee was picked up for scrutiny. On enquiry, the Chairman of Learn, issued letters dated 21.08.2007 and 06.12.2007 denying the claim made by the appellant of it making donations of the aforesaid amount to the appellant. Accordingly, the Assessing Officer added the said amount of Rs.95,00,000/- to the taxable income of the appellant. The appeal preferred by the appellant before the CIT(A)

succeeded. Against that order, the Revenue preferred an appeal before the Income Tax Appellate Tribunal which remanded back the matter to the Assessing Officer. In the second round, once again the Assessing Officer made the assessment and found that the payment had been received by the assessee from the account of Learn, however, the amount had been deposited in the account of Learn in cash just a day before the demand drafts were issued in the favour of the appellant. In this background, the Assessing Officer, did not accept the explanation offered by the assessee and maintained his earlier order. The appeal preferred by the appellant before the CIT (A) and thereafter, before, the ITAT have met the same fate. The submission of learned counsel for the appellant is that the Chairman of Learn was not even produced for the cross examination despite appellant's request. He submits that there are confirmation letter issued by Learn, confirming the payment of the said amount as donation.

2. We have perused the order passed by the learned Assessing Officer upon remand. The view taken by him is premised on fair appreciation of facts and it cannot be said that the view taken by him is not a possible view looking into the circumstances of the case. The said finding of fact has been affirmed by the CIT (A) as well as ITAT. It cannot be said that the finding that has been returned against the appellant is *de-hors* any evidence. If the appellant so minded, it could produce the chairman of Learn. The appellant claimed to have received the said donation and thus onus lay on him to establish the same. However, he did not produce the said Chairman as it own witness in the assessment proceedings.

3. There are consistent and concurrent findings of fact returned by the Assessing Officer; CIT(A) and the ITAT, we are not inclined to interfere with the same in the present appeal, and no question of law arises. Accordingly, the present petition stands dismissed.

VIPIN SANGHI, J

SANJEEV NARULA, J

OCTOBER 18, 2019

Pallavi