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

\+ ITA 1026/2019

THE PR. COMMISSIONER OF INCOME TAX -3
..... Appellant

Through: Mr. Aseem Chawla, Sr. SC alongwith Ms. Pratishtha Chaudhary and Mr. Aditya Gupta, Advocates

Versus

ESCORTS HEART INSTITUTE AND RESEARCH CENTRE
..... Respondent

Through: Mr. Simran Mehta, Adv.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% 21.03.2024

1. This appeal is directed against the order of the Income Tax Appellate Tribunal ["**ITAT**"] dated 11 June 2019 and has proposed the following question of law for our consideration.

> "Whether on the facts and in the circumstances of the case and in law, ld ITAT/CIT(A) has erred in deleting the addition of Rs. 156,44,47,193/- being deemed income under section 11(3) of the Income Tax Act, 1961 on account of accumulated income of past years?"

2. The solitary issue which appears to arise is with respect to accumulation of income within the meaning of Section 11(2) of the Income Tax Act, 1961 ["**Act**"]. The ITAT, while dealing with the aforesaid issue has observed as follows:-

"**12**. Now, the question remains whether there was any accumulated income within the meaning of Section 11(2) of the Income-tax Act. Learned CIT(A), after considering the facts of the case in detail including the application of income in each assessment year beginning from assessment year 1986-87, has arrived at the conclusion that there was no accumulation of income in any of the years. On the other hand, the application of income was more than the prescribed limit of 85%. The above finding of fact recorded by the CIT(A) has not been controverted by the Revenue. The assessee has stated before the learned CIT(A) as well as before us that the assessee has not accumulated any income in any of the past assessment year by filing application as prescribed in that Section. The Revenue neither in the assessment order nor during appellate proceedings before the CIT(A) including the remand report before learned CIT(A) has been able to establish that there was any accumulation of income as provided in Section 11(2) of the Act. Before us also, no evidence is brought on record by the Revenue to establish any accumulation of profit under Section 11(2) by the assessee society. In view of the above, we do not find any justification to interfere with the order of the learned CIT(A) in this regard. The same is sustained and all the grounds raised by the Revenue in this appeal are dismissed."

3. In view of the admitted position of the appellant having failed to lead any evidence in support of the allegation of accumulation of profit, we find that the appeal fails to raise any substantial question of law.

4. Consequently, we find no reason to interfere with the impugned order of the ITAT. The appeal shall stand dismissed.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

MARCH 21, 2024

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