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

\+ ITA 81/2025

COMMISSIONER OF INCOME TAX (EXEMPTIONS) DELHI
.....Appellant

versus

BALAJI MEDICAL AND DIAGNOSTIC RESEARCH CENTRE
.....Respondent

AND

\+ ITA 82/2025

COMMISSIONER OF INCOME TAX (EXEMPTIONS) DELHI
.....Appellant

versus

BALAJI MEDICAL AND DIAGNOSTIC RESEARCH CENTRE
.....Respondent

Present: Mr Abhishek Maratha, SSC, Mr Apoorv Agarwal, Mr Parth Samwal, JSCs, Ms Nupur Sharma, Mr Gaurav Singh, Ms Muskaan Goel, Mr Bhanukaran Singh Jodha, Advocates for the Revenue.

Mr Ajay Vohra, Sr Advocate with Mr Aniket D Agrawal, Mr Saksham Singhal and Mr Manisha Sharma, Advocates for the Assessee.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

% **04.04.2025**

CM APPL. 19774/2025(condonation of delay in refiling) in ITA 81/2025
CM APPL. 19821/2025(condonation of delay in refiling) in ITA 82/2025

1. For the reasons stated in the applications, the delay of 113 days in re-filing the above captioned appeals are condoned.

2. The applications are disposed of.

CM APPL. 19773/2025(condonation of delay in filing) in ITA 81/2025
CM APPL. 19820/2025(condonation of delay in filing) in ITA 82/2025

3. For the reasons stated in the applications, the delay of 08 days in filing the above captioned appeal stands condoned.

4. The applications are disposed of.

ITA 81/2025 & ITA 82/2025

5. The Revenue preferred above captioned appeals under Section 260A of the Income Tax Act, 1961 [**the Act**], *inter alia,* impugning the common order dated 08.05.2024 passed by the learned Income Tax Appellate Tribunal [**ITAT**] in ITA Nos.192/Del/2024 and 195/Del/2024 captioned *DCIT, Circle 1(1)(E) Delhi v. Balaji Medical and Diagnostic Research Centre* in respect of the Assessment Years [**AY**] 2016-17 and 2017-18 respectively.

6. The Revenue had preferred the aforementioned appeals against the orders dated 16.10.2023 passed by the learned Commissioner of Income Tax (Appeals) [**CIT(A)**] in respect of AY 2016-17 and AY 2017-18, which are subject matter of ITA No.81/2025 and 82/2025 respectively.

7. The learned CIT(A) had allowed the appeals preferred by the respondent [**Assessee**] against the assessment order dated 28.12.2018 in respect of AY 2016-17 and assessment order dated 30.12.2019 in respect of AY 2017-18.

8. The controversy essentially stems from the Assessing Officer's [**AO**] findings that the Assessee was not entitled to the benefit of exemption under Section 11 and 12 of the Act. Accordingly, the AO had assessed the Assessee as a Body of Individuals [**BOI**]. The AO has assessed the income of the Assessee at ₹35,76,51,706/- in respect of AY 2016-17 by the

assessment order dated 28.12.2018; and at ₹55,18,88,080/- in respect of AY 2017-18 by the assessment order dated 30.12.2019.

9. According to the AO, the activities carried out by the Assessee did not qualify as activities for charitable purpose within the meaning of Section 2(15) of the Act. Thus, notwithstanding that the Assessee – a society registered under the Societies Registration Act, 1860 – was registered under Section 12A of the Act, the AO held that the Assessee was not entitled for exemption under Section 11 and 12 of the Act.

10. The AO was of the view that the Assessee had necessary infrastructure to tackle the medical emergencies yet it had made certain payments to Max Healthcare Institute Limited and Max Medical Services Private Limited (which stood merged with Max Healthcare Institute Limited with effect from 01.10.2016) in respect of certain medical services.

11. The AO was also of the view that there was a mismatch between the figures reported in percentage in respect of provisions of OPD and IPD facilities to the patients belonging to Economic Weaker Sections [**EWS**]. The AO was of the view that the Assessee had not complied with the directions issued by this court in ***Social Jurist v. GNCT of Delhi & Others; WP(C) No.2866/2002*** decided on 22.03.2007 which required at least 25 (twenty-five) percent of the medical services of the OPD and 10 (ten) percent of the medical services of the IPD be made available to the person belonging to the EWS.

12. The learned CIT(A) as well as the learned ITAT did not concur with the aforesaid findings. The learned CIT(A) found that the Assessee's activities fell within the scope of charitable purposes as defined under Section 2(15) of the Act. The learned CIT (A) also referred to the previous

order passed in respect of the earlier assessment year.

13. Undisputedly, the Assessee has been enjoying the benefit of exemption since AY 2006-07. A plain reading of the orders passed by the learned CIT(A) indicates that the same turns on findings of fact, which has also been affirmed by the learned ITAT by referring to the decision in respect of earlier assessment years.

14. It is well settled that eleemosynary is not a necessary component of charitable purpose within the meaning of Section 2(15) of the Act[1].

15. As noted above, since the question whether the activities of the Assessee are covered under the definition of charitable purpose turns on the facts in the present case, which have been found in favour of the Assessee concurrently by the learned CIT(A) as well as the learned ITAT.

16. In view of the above, no substantial questions of law arise in the captioned appeals. The appeals are, accordingly, dismissed.

VIBHU BAKHRU, J

TEJAS KARIA, J

APRIL 04, 2025

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[1] [Assistant Commissioner v. Surat Art Silk Cloth Manufacturers' Association: (1980) 2 SCC 31; In *re* Trustees of the 'Tribune': (1939) 7 ITR 415 decided on 13.06.1939; Commissioners for Special Purposes of Income-tax v. Pemsel: (1891) 3 TC 53 (HL)]