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

\+ ITA 279/2026, CM APPL. 21011/2026, CM APPL. 21012/2026 & CM APPL. 21013/2026

SATILILA CHARITABLE SOCIETY .....Appellant

Through: Mr. Arijit Prasad, Sr. Adv. with Dr.Rupesh Singh, Ms. Ankita Singh & Mr. Deepak Kumar, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX .....Respondent

Through: Mr. Abhishek Maratha, SSC with Mr.Apoorv Agarwal & Mr. Viplav Acharya, JSCs with Mr. Nupur Sharma, Mr. Gaurav Singh, Ms.Muskaan Goel, Mr. Himanshu Gaur & Mr. Gaurav Kumar Arya, Advs.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE VINOD KUMAR

O R D E R

% 22.04.2026

1. By way of the present appeal preferred under Section 260A of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*), the appellant has challenged order dated 02.09.2025 passed by the Income Tax Appellate Tribunal, Delhi Bench "G", Delhi (*hereinafter referred to as 'the Tribunal'*), whereby the Tribunal has remanded the matter back to the Assessing Officer for *de novo* assessment proceeding.

2. The facts giving rise to the present appeal are that the appellant, a

charitable society registered under the provisions of Section 12AA of the Act of 1961, had filed its return of income for assessment year 2017-18. The appellant's assessment was made vide order dated 22.12.2019 passed under Section 144 of the Act of 1961. According to the assessee, appellant's Chartered Accountant had fallen sick and thereafter, unfortunately passed away and the assessee was not aware of the pendency of the proceedings and hence, it could not represent or remain present during proceedings and hence, it could not represent or remain present during proceedings.

3. Against the assessment order so passed, the appellant preferred an appeal before the Commissioner of Income Tax (Appeals) (*hereinafter referred to as 'CIT(A)'*), who *vide* order dated 30.03.2024, allowed the appeal on the basis of additional documents which were filed by the appellant-assessee before it.

4. The respondent-Department challenged the order of the CIT(A) before the Tribunal. The basic ground which the Income Tax Department had taken before the Tribunal was, that the additional documents which were filed by the assessee before the CIT(A), were not provided to the Assessing Officer as mandated under Rule 46A of the Income Tax Rules, 1962 *(hereinafter referred to as 'the Rules of 1962')* due to which, the Assessing Officer was deprived of putting forth his stand on those documents. The Tribunal therefore concluded that there has been a breach of mandate of Rule 46A of the Rules of 1962 and remanded the matter, while giving detailed reasons in paragraph No.5 of its order dated 02.09.2025, impugned in the present appeal.

5. Mr. Arijit Prasad, learned senior counsel for the appellant argued that the Tribunal has committed an error of law in remanding the matter. He

submitted that the CIT(A) is having a concurrent jurisdiction and that the appellate proceedings are continuation of the assessment proceedings and if the CIT(A) has seen the documents and satisfied itself about the correctness of the expenditure and affairs of the appellant-society, the Tribunal ought not to have remanded the matter back to the Assessing Officer.

6. He further argued that the appellant's registration under Section 12AA of the Act of 1961 has not been cancelled and since the same is continuing, the Assessing Officer could not have confined the carry forward of five years' income to 50%. He submitted that the proposition before the Tribunal was revenue neutral and therefore, there was no reason to interfere.

7. Upon hearing such submission, the Court interjected and put a query as to how does the aforesaid issue emanate from the order of the Tribunal?

8. He responded by contending that this plea was very much raised before the Tribunal, but the Tribunal has not considered the same. Hence, the appellant can raise their plea.

9. Learned senior counsel for the appellant also argued that the Assessing Officer had not rejected the books of accounts and therefore, the audit report and audited books of accounts were supposed to be relied upon.

10. Heard learned counsel for the parties.

11. So far as the other argument raised by learned senior counsel for the appellant that the Tribunal ought to have considered and decided the issue as to whether the Assessing Officer was justified in confining the carry forward of income to 50%, that too without books being rejected, and registration being cancelled are concerned, we feel that since the Tribunal has not decided the addition or correctness of the assessment order on merits and has remanded the same on finding an apparent breach of mandate of Rule

46A of the Rules of 1962, we are of the view that neither the Tribunal nor are we required to delve into such issue, which essentially hinges upon merits of the addition.

12. Learned senior counsel for the appellant could not satisfy that the additional evidences which were led directly before the CIT(A) were provided to the Assessing Officer. Hence, the breach of mandate of Rule 46A of the Rule of 1962 is writ large. Such being the position, we are of the view that the Tribunal has not committed any error of law in remanding the matter back to the Assessing Officer.

13. Needless to observe that we have confined our adjudication *qua* the issue of non-observance of mandate of Rule 46A of the Rules of 1962 and we have not commented upon merits or otherwise of the assessment order. The Assessing Officer shall be bound to consider the material in accordance with law without being influenced by the order passed by the Appellate Authorities or his own order which he had passed to the best of his judgment.

14. The appeal is dismissed in the aforesaid terms. All pending applications stand disposed of.

DINESH MEHTA, J

VINOD KUMAR, J

APRIL 22, 2026
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