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

\+ W.P.(C) 9847/2009

\+ W.P.(C) 9848/2009

DPS SOCIETY

.....Petitioner

Through: Mr. Satyen Sethi & Mr. Arta Trana Panda, Advocates.

versus

UOI

.....Respondent

Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh, JSC.

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

<u>O R D E R</u>

% **12.02.2026**

1. These writ petitions have been filed against order(s) dated 26.02.2009 passed by respondent no.5, whereby the exemption under Section 10(23C)(vi) of the Income Tax Act, 1961 *(hereinafter referred to as "The Act of 1961")* for assessment year 2005-06 to 2007-2008 in W.P.(C) 9847/2009 and AY 2002-03 to 2004-05 in W.P.(C) 9848/2009 has been withdrawn following the order dated 30.04.2008 passed by the respondent no. 5 himself for the AY 2008-09.

2. Learned counsel for the petitioner at the outset submitted that against the said order dated 13.04.2008, the petitioner had preferred a writ petition, which was allowed by this Court in the case of **DIT (Exemption) v. Delhi Public Society** decided on 03.04.2018 reported in 2018 (403) ITR 49 Delhi.

and, SLP thereagainst has been rejected by Hon'ble the Supreme Court.

3. He submitted that vide its judgment dated 03.04.2018, this Court has categorically recorded a finding that the charging of franchise fees for various schools being run under the aegis of the society was only incidental activity and for this reason the society cannot be said to be business income.

4. Learned counsel submitted that all the facts are identical and therefore, these writ petitions also deserve to be allowed.

5. Mr. Gaurav Gupta, learned Senior Standing Counsel, was not in a position to dispute the aforesaid position of fact and law.

6. In view of what we have noticed hereinabove, the writ petitions are allowed and the impugned order(s) dated 26.02.2009 passed by the respondent no.5 are hereby quashed and set aside.

7. The respondents are directed to do the needful consequent to quashment of the order dated 26.02.2009 and pass consequential order in accordance with law.

DINESH MEHTA, J.

VINOD KUMAR, J.

FEBRUARY 12, 2026/*nk*