NEUTRAL CITATION NO: 2022/DHC/004059



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IN THE HIGH COURT OF DELHI AT NEW DELHI

ITA 372/2022 +

COMMISSIONER OF INCOME TAX (EXEMPTIONS)

DELHI

..... Appellant

Through: Mr. Abhishek Maratha, Sr. Standing

Counsel for Revenue.

versus

PETROTECH

..... Respondent

Through: None.

ITA 373/2022 +

COMMISSIONER OF INCOME TAX (EXEMPTIONS)

DELHI

.... Appellant

Through: Mr. Abhishek Maratha, Sr. Standing

Counsel for Revenue.

versus

PETROTECH

..... Respondent

Through: None.

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Date of Decision: 28th September, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, J (Oral):

- 1. Present income tax appeals have been filed challenging the common impugned order dated 5th October, 2020 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 6778 & 6779/Del./2017 for Assessment Years 2013-14 & 2014-15.
- 2. Learned counsel for the Appellant/Revenue states that the ITAT has appreciating that the activities of the Assesseesociety/Respondent-herein are in the nature of trade, commerce or business, and thus the benefit of exemption under Section 11 & Section 12 of the

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Income Tax Act, 1961 ('the Act') cannot be given to the Appellant.

- 3. Admittedly, the questions of law urged in the present appeals are covered by the decision dated 20th December, 2017 of this Court in assessee's own case in ITA 1172/2017. Learned counsel for the Appellant states that the Revenue has not accepted the aforesaid decision and has preferred a Special Leave Petition being Civil Appeal No. 9553/2018 against the same.
- 4. Though the judgment of this Court has been challenged and is pending adjudication before the Supreme Court, yet there is no stay of the said judgment till date.
- 5. Consequently, in view of the judgments passed by the Supreme Court in *Kunhayammed and Others vs. State of Kerala and Another*, (2000) 6 SCC 359 and Shree Chamundi Mopeds Ltd. Vs. Church of South India Trust Association CSI Cinod Secretariat, Madras (1992) 3 SCC 1, the present appeals are covered by the decision passed by the learned predecessor Division Bench in ITA 1172/2017.
- 6. Accordingly, no substantial question of law arises for consideration in the present appeals and the same are dismissed.
- 7. However, it is clarified that the order passed in the present appeals shall abide by the final decision of the Supreme Court in the aforesaid Civil Appeal.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 28, 2022/msh

ITA 372/2022 & ITA 373/2022