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

\+ W.P.(C) 4365/2021

AROH FOUNDATION ..... Petitioner

Through: Mr. Kamal Sawhney, Mr. Arun Bhadauria and Mr. Puru Medhira, Advs.

versus

COMMISSIONER OF INCOME TAX EXEMPTION & ANR. ..... Respondents

Through: Mr. Abhishek Maratha, SCC with Mr. Parth Semwal and Ms. Nupur Sharma, JSCs.

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

**O R D E R**

**% 05.02.2024**

**PER: PURUSHAINDRA KUMAR KAURAV J.**

1. This petition has been preferred by the petitioner-Aroh Foundation ["**assessee"**] under Article 226 of the Constitution of India against the impugned order dated 27.03.2021, whereby, the revision under Section 264 of the Income Tax Act, 1961 ["**Act**"] preferred by the assessee, has been rejected while affirming the original scrutiny assessment under Section 143(3) of the Act, wherein, exemption under Sections 11 and 12 of the Act had been denied to the assessee.

2. Brief facts necessary for deciding the controversy involved in the instant writ petition are that the assessee is a Non-Governmental Organisation registered since 28.04.2023 as a charitable institution

under Sections 12A read with 12AA and 80G of the Act. The assessee claims to have been working for the upliftment of the poor, underprivileged children and women, health, preservation of the environment and other social causes. In order to fulfil its charitable objectives, the assessee receives various grants from the Government as well as the private sector which is exempted from tax under Sections 11 and 12 of the Act.

3. The present writ petition relates to Assessment Year ["**AY**"] 2017-18. It is the case of the assessee that at no point of time, except for the AY 2017-18 was the charitable status of the assessee doubted by the respondent-Revenue and for all previous AYs, specifically for the AYs 2011-12, 2012-13, 2013-14, and 2015-16, under similar circumstances, exemption under Sections 11 and 12 of the Act was granted to the assessee and even for the subsequent AY i.e., AY 2018-19 as well, similar benefit was extended. However, the benefits for the relevant AY in question have been denied merely on the ground that the donor has deducted tax at source ["**TDS**"] under Sections 194C and 194J of the Act, while allocating requisite grants to the assessee.

4. The assessee submits that neither in the assessment order nor in the revisional order, whereby, the revision has been dismissed, was any reason assigned to lawfully deny benefits under Sections 11 and 12 of the Act. According to the assessee, the donor's deduction of TDS under a particular head is not in the assessee's control and in any case, for a similar donation/receipt, the benefits under Sections 11 and 12 of the Act had been conferred. Therefore, there was no reason to depart from a consistent approach adopted by the Department itself.

5. Learned counsel appearing for the assessee has also apprised

the Court of the various assessment orders placed on record for the AYs as referred to hereinabove. He has explained that for all those AYs, it was categorically found that the assessee fulfilled all the conditions laid down in Sections 11 to 13 of the Act. According to him, since there is no change in facts of the relevant AY in question from the previous years, there is no reason for the Respondents to deviate in respect of the AY in question. Hence, exemption for charitable activities ought to have been allowed for the AY in question as well.

6. Learned counsel appearing on behalf of the respondent-Revenue vehemently opposes the submissions advanced by learned counsel for the assessee. He submits that the original scrutiny assessment order dated 22.12.2019 fundamentally records that the assessee has earned consultancy fees and was in receipt of contractual receipts. He, therefore, submits that analyzing the terms of the agreement entered into between the assessee and companies like Flex Foods Ltd., Uflex Limited etc. **[''Grantor Companies'']** would indicate that during the course of the work carried out by the assessee, the assessee acted as per instructions and guidance of the Grantor Companies and not of its own volition. It is, therefore, submitted that the activity of the assessee falls under the sixth limb of Section 2(15) of the Act i.e. "*Advancement of any other object of general public utility*". It is, thus, urged that the case of the assessee has been rightly found to be hit by the Proviso to Section 2(15) of the Act.

7. Learned counsel further justifies the impugned revisional order and submits that there is no jurisdictional error warranting any interference by this Court. According to him, it was rightly noticed

that the assessee's foundation had earned consultancy fees, contractual receipts etc., in relation to the activities of providing services to the corporate sector. According to learned counsel, even TDS has been deducted on those fees/receipts by the respective entities under Sections 194C/194J of the Act by treating them as professional/contractual fees paid to the assessee. It is, thus, submitted that those receipts cannot be treated to be in the nature of the voluntary contribution of the assessee and accordingly, no interference is called for by this Court.

8. We have heard learned counsel appearing on behalf of the parties and perused the record.

9. A bare perusal of the assessment order dated 22.12.2019 would indicate that for the year in question i.e., AY 2018-19, the assessee's foundation had disclosed total receipts as per the income and expenditure account to the tune of Rs.20,32,12,834/-. The said receipts include receipts amounting to Rs.5,90,42,892/- allegedly in the nature of consultancy fees and contractual receipts which comprise 29.05% of the total income.

10. As per the assessment order, the rationale for describing the receipt of Rs.5,90,42,892/- as consultancy fees and the contractual receipts is founded on the ground that the deductors such as the Grantor Companies, have deducted TDS under Section 194C of the Act for contractual works or Section 194J of the Act for consultancy services, respectively and the assessee acted as per the instructions of the Grantor Companies.

11. The assessee, when was intimated by notice dated 05.10.2019 to provide a note of charitable activities had in response thereto, *vide* its reply dated 12.10.2019 submitted *inter alia* that the foundation is engaged in social development and welfare activities to uplift the poor and underprivileged children, women and youth through programmes of education, vocational training, skill development, health and environment in various states of India. The monetary receipts for the projects received from donors were to carry out the aforesaid activities for fulfilling the objects and purposes of the foundation.

12. *Vide* another notice dated 09.11.2019, the assessee was further called upon to explain the rationale behind TDS by the payer on the aforesaid noted grants. The assessee *vide* its reply dated 12.11.2019 submitted that the assessee is merely an implementing agency and works purely on behalf of the funder. The assessee implements welfare schemes by making use of grants-in-aid given by the funder. The assessee does not provide any service, and there is no service provider-client relationship.

13. The Assessing Officer **["AO"]**, however, *vide* order dated 22.12.2019, found that a conjoint reading of Sections 2(15) and 13(8) of the Act unambiguously shows that nothing contained in Sections 11 and 12 of the Act shall operate if an assessee is hit by the Proviso to Section 2(15) of the Act.

14. In terms of paragraphs 12.2 and 13, the AO held as under:

> *"12.2 When the aggregate value of receipts from such business activity exceeds twenty percent of the gross receipts, then in case of a trust of above mentioned category, the proviso to section 2(15) comes into play. The objective of such trust does not remain charitable for that year. When this happens, such business activity no more remains charitable u/s 2(15) of the Act. Thereby it cannot*

*claim exemption u/s 11 & 12 on such business income. The section 13(8) of the Act will be invoked to deny the exemption u/s 11 & 12 of the Act.*

*13. In view of the foregoing, there left no room for debate and it is crystal clear that the assessee is hit by the express provisions of 1st proviso to section 2(15) of the Act as it has rendered service in relation to commerce, or business or trade and has received fee/receipts in excess of twenty percent of gross receipts for rendering of services and consequently not eligible for benefits of exemptions of section 11 & 12 of the Act by virtue of operation of section 13(8) of the Income Tax Act 1961. Thus, benefits of exemptions of section 11 & 12 are denied to the assessee and is assessed as normal AOP under chapter IV of the Income Tax Act 1961"*

15. The assessee being dissatisfied by the aforesaid order, filed a revision under Section 264(1) of the Act before the revisional authority. In terms of paragraph 2.18 of the revision petition, the assessee had, besides other grounds, set up a specific case that deduction or non-deduction of TDS by some of the donors would not alter the status of the assessee being charitable in character, so long as the activities of the assessee are relatable to a charitable purpose.

16. The revisional authority by the impugned order dated 27.03.2021 dismissed the revision petition of the assessee while reiterating the conclusion arrived at by the AO *inter alia* holding that the assessee's foundation falls under the sixth limb of Section 2(15) of the Act i.e. "*Advancement of any other object of general public utility*". Paragraphs 4.3 to 4.6 of the order passed by revisional authority read as under:-

*"4.3 After going through submissions, documents, etc. submitted during the course of assessment proceedings, the AO concluded that the activities of the assessee foundation fall under the sixth limb of section 2(15) of the Act that is 'Advancement of any other object of general public utility'. As per AO, a conjoined reading of section 2(15) and 13(8) of the Act, unambiguously shows that nothing contained in the section 11 or 12 of the Act shall operate if an assessee is hit by the proviso to section 2(15), w.e.f. A.Y. 2009-*

*10. It was noticed that the assessee foundation had earned Consultancy fee, Contractual Receipts etc., in relation to the activity of providing services to the corporate sector. Further, the tax at source has also been deducted on these fee/receipts by these entities under Chapter XVII-B of the Act u/s 194J/194C by treating them professional fee/ contractual fee paid to the assessee, which clearly demonstrate that these receipts were not in the nature of voluntary contribution received by the assessee. Therefore it had rendered service in relation to trade, commerce or business. Further, the receipt on account of such fees was way above the limit of twenty percent of the total receipts. In case of assessee foundation, consultancy and contractual receipts comprises around 29.05% of the total receipts as has been explained above.*

*4.5 In view of the foregoing, as per AO, it is crystal clear that the assessee is hit by the express provisions of 1st proviso to section 2(15) of the Act as it has rendered service in relation to commerce, or business or trade and has received fee/receipts in excess of twenty percent of gross receipts for rendering of services and consequently not eligible for benefits of exemptions of section 11 & 12 of the Act by virtue of operation of section 13(8) of the Income Tax Act, 1961.*

*4.6 Thus, benefits of exemptions of section 11 & 12 were rightly denied to the assessee and was assessed as normal AOP under chapter IV of the Income Tax Act 1961."*

17. At this juncture, it is pertinent to refer to Section 2(15) of the Act which reads as under:-

*"2. Definitions.—In this Act, unless the context otherwise requires,—*

*……..*

***[(15) "charitable purpose" includes relief of the poor, education, [yoga,] medical relief, [preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest,] and the advancement of any other object of general public utility:***

*[Provided that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the* ***carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration,*** *irrespective of the nature of use or application, or retention, of the income from such activity, unless—*

*(i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and*

*(ii) the aggregate receipts from such activity or activities during the previous year, do not exceed twenty per cent of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year;]"*

18. The Proviso to Section 2(15) of the Act would indicate that the "*advancement of any other object of general public utility*" shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity. Unless such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and the aggregate receipts from such activity or activities during the previous year, do not exceed twenty percent of the total receipts of the trust or institution undertaking such activity or activities in the previous year, it would not fall under the umbrella of 'advancement of any other object of general public utility' for charitable purpose.

19. In the instant case, the sole reason to construe the receipt amounting to Rs.5,90,42,892/- received by donors under the tax regime is founded on the assumption that the same is towards professional/technical services or contractual income as TDS was deducted under the Sections 194C and 194J of the Act.

20. We, prima facie, find no merit in the abovementioned rationale as *firstly,* that alone cannot be the basis to conclude the aforesaid

receipt to be considered under the category of consultancy fees and contractual income. *Secondly,* there is no element of activity in the nature of trade, commerce or business, or any activity or rendering any service in relation to any trade, commerce or business. *Thirdly,* in absense of any cogent reason, receipts in question cannot be 'advancement of any other object of general public utility'.

21. If the deductor in its Income Tax Return, under misconception, deducts TDS under Sections 194C and 194J of the Act, the same would not disentitle the assessee to claim benefit under Sections 11 and 12 of the Act unless the case of assessee is specifically hit by the Proviso of Section 2(15) of the Act, which is not the case here. The Proviso to Section 2(15) of the Act would not get attracted merely on the basis of deduction of TDS by the donor under a particular head.

22. At this point, it is pertinent to refer to the decision of this Court in the case of **Director of Income Tax v. Society for Development Alternatives** [2012 SCC OnLine Del 225], where while upholding the decision of Commissioner of Income Tax (Appeals), this Court held that in case of charitable institutions, tied-up grants received from donors if meant to be utilized for charitable purposes and not for other purposes, then those grants are non-taxable and thus, the charitable institutions are eligible to avail the benefits under Sections 11 and 12 of the Act. The relevant paragraphs of the said decision are reproduced herein:-

> *"7. With regard to the second contention, the findings recorded by the tribunal are that the respondent-assessee had received grants for specific purposes/projects from the government, non-government, foreign institutions etc. These grants were to be spent as per the terms and conditions of the project grant. The amount, which remained unspent at the end of the year, got spilled over to*

*the next year and was treated as unspent grant. The Commissioner of Income Tax (Appeals) while deleting the said addition had observed as under:-*

> *"I have considered the assessment order and submissions of the appellant along with evidences placed on record. On perusal of the evidences regarding the project grants placed on record, it is seen that the said amounts are received/sanctioned for a specific purpose/project to be utilized over a particular period. The utilization of the said grants is monitored by the funding agencies who send persons for inspection and also appoint independent auditors to verify the utilization of funds as settled terms. The appellant has to submit inter/final progress/work completion reports along with evidences to the funding agencies from time to time. These agreements also include a term that separate audits accounts for the project will be maintained. The unutilized amount has to be refunded back to the funding agencies in most of the cases. All the terms and conditions are simultaneously complied with otherwise the grants are withdrawn. The appellant has to utilize the funds as per the terms and conditions of the grant. If the appellant fails to utilize the grants for the purpose for which grant is sanctioned, the amount is recovered by the funding agency.* ***On the basis of the evidences placed on record, it is seen that the appellant is not free to use the funds voluntarily as per its sweet will and, thus, these are not voluntary contribution as per Section 12 of the Act. These are tied up grants where the appellant acts as a custodian of the funds given by the funding agency to channelize the same in a particular direction.***
>
> ***In case of voluntary contribution, the appellant is free to use the money as per its will and neither have to render the account of the same to the donor nor the same is monitored by the donor. The said amount becomes income of the appellant and has to be used for charitable purposes as per its objects. However, in case of specific tied up grants, money is received for specific purposes and is to be utilized for the same."***

*8. The Commissioner of Income Tax (Appeals) has also referred to the judgment of the Rajasthan High Court in Sukhdeo Charity Estate Vs. CIT (1984) 149 ITR 470 (Raj.).*

*9. In view of the aforesaid factual position, the tribunal has upheld the order passed by the Commissioner of Income Tax (Appeals) and has not accepted the appeal filed by the Revenue."*

23. Notably, in the instant case, it is seen that for the AY 2012-13, the National Institute of Rural Development [**"NIRD"**] had deducted

the highest TDS. However, the assessment order dated 06.03.2014 acknowledged that the receipts of the foundation were utilised for carrying out charitable activities and for fulfilling its objects. The assessee was found to have satisfied the conditions laid down in Sections 11 to 13 of the Act and the total income of the assessee returned at NIL, was accepted. The extract of the assessment order dated 06.03.2014 reads as under:

*"Assessment Order*

*Return declaring NIL income was filed in this case on 26.09.2012. The case was selected for scrutiny on the basis of guidelines for selection of cases for scrutiny.*
*Notice u/s l43(2) was issued on 08.08.2013 fixing the case for hearing on 26.08.2013 and various dates. In response to the notices u/s l43(2) / l42(l) Sh. Nand Kishore Pandey, CA authorized representative of the. assesses attended the proceedings from time to time, filed the details, submissions and explanations as called for. The books of accounts were examined on test check basis. The Assesses registered u/s 12A since 01.04.2002. The society is also registered u/s 80G (5)(vi) vide DlT(E) 201 l-2012/A-1544/2067 order dated 10.10.2011 which is valid from 01.04.2010 onwards till it is rescinded."*

24. Similarly, for AY 2013-14, TDS to the tune of Rs.24,59,409/- was deducted. In terms of the assessment order dated 26.11.2015, the assessee was found to fulfil the conditions laid down under Sections 11 to 13 of Act. The extract of the assessment order dated 26.11.2015 reads as under:-

*"Assessment Order*

*The Assessee has filed return of income of the A.Y. 2013-14 was filed on 27.09.2013. The case was selected for scrutiny as per norms and notice u/s 143(2) was issued on 25.09.2014. Subsequently, notice u/s 142(1) along with questionnaire was issued on 22.04.2015. In response to the above notices, Shri Nand Kishor Pandey, CA, and A/R of the assessee trust appeared from time and time and submitted details and particulars in support of the return which were examined. The books of accounts were also produced and the same were examined on test check basis. The assesses registered u/s. 12A since 01.04.2002. The society is also*

*registered u/s 80G (5)(vi) vide DIT(E) 2011-12/A-1544/2067 order dated 10.10.2011 which is valid from 01.04.2010 onwards till it is rescinded.*

*From the details submitted by the assesses, it is seen that the assessee is engaged in Social development and welfare activities to uplift the poor and underprivileged children, women and youth through programmes health and environment in various states of India The receipts of Project are donations from GAIL INDIA,WAPCOS Limited, Ministry of Rural Development, Oil and Natural Gas Corporation Ltd etc, to carry out these activity for fulfilling their objects and purpose for all type community.*

*The activities of the assessee are charitable within the meaning of section 2(15) of the Income Tax Act, as such, exemption is allowed to the assessee u/s 11 of the Income tax Act.*

*Assessee at total income u/s 143(3) at Nil. Give credit for prepaid taxes after verification. Issues necessary forms."*

25. Also, for the AY 2015-16, the benefit of Sections 11 and 12 of the Act was allowed under almost similar circumstances. The extract of the assessment order dated 17.11.2017 reads as under:

"*Assessment Order*

*The return for the A.Y. 2015-16 was filed on 28.09.2015, disclosing NIL income. Subsequently, the case was selected for limited scrutiny under CASS and notice u/s l43(2) was issued on 28.07.2016 & duly served upon the assessee. Thereafter, notice u/s l42(1) along with questionnaire was issued, in response to which Shri Nand Kishor Pandey, CA and AR of the assessee trust, attended from time to time and filed details and particulars as requisitioned, which were placed on record.*

*The society is registered u/s 12A of the Income Tax Act, 1961 vide order F. No. DlT(E)/2002-03/A-l544/109 dated 28.04.2003. It is also registered u/s 80G(5)(vi) vide order no. DlT(E) /2011-12/A-l544/2067 dated 10.010.2011.*

*From the details submitted by the assessee, it is seen that the assessee engaged in social development and welfare activities to uplift the poor and underprivileged children, women and youth through programmes health and environment in various states of Indian the receipts of Project are donations for Gail India, WAPCOS Limited, Ministry of Rural Development, Oil and Natural Gas Corporation Ltd etc, to carry out these activity for fulfilling their objects and purpose for all type community.*

*The objects of the society appears to be charitable in nature within the meaning of section 2(15) of the Income-tax Act, 1961. The benefit of section 11 & 12 is allowed to the assessee.*

*Assessed at NIL income u/s 143(3) of the Act. Issue necessary forms. Deficit, if any, is not allowed to be carried forward. Give credit for prepaid taxes after verification."*

26. More interestingly, even for the subsequent year i.e., AY 2018-19 again TDS was deducted by the same donors as in the year in question and the exemption under Sections 11 and 12 of the Act was accepted in terms of the assessment order dated 09.03.2021. The extract of the same reads as under:-

"*Assessment Order*

*1. The case was selected for Complete Scrutiny assessment under the E-assessment Scheme, 2019 on the following issues:-_*

***S. No. Issues***

*i. Accumulation of Income by Trust*

*ii Refund Claim*

*In this case the assessee AROH FOUNDATION, PAN: AAATA7067P filed return of income vide Acknowledgement 294985021170918 on 17/09/2018. The case has been selected for scrutiny through CASS.*

*Notice u/s 143(2) and 142(1) of the IT Act 1961 was issued and served to the assesses vide DIN No.: ITBA/AST/S/143(2)/2019-20/1018197560(1) on 22/09/2019 and DIN: ITBA/AST/F/142(1)/2020-21/1029030428(1) on 16/12/2020 respectively.*

*Assessee furnishes e-compliance in response to the notice u/s 142(1) IT Act 1961 on 31/12/2020 and 30/01/2021. The submissions of the assessee are examined and assessment is completed as per return.*

*Assessment of income is determined as per computation sheet and the sum payable and refund of any amount due on the basis of the assessment is determined as per the notice of demand.*"

27. It is thus seen that deduction of TDS by donor would not be the determinative factor for denial of benefits under Sections 11 and 12 of the Act. The respondent-Revenue, in the instant case, in the preceding years as well as in the succeeding years, under almost similar circumstances, has accepted the exemption claimed by the assessee under Sections 11 and 12 of the Act and, therefore, should not have

deviated from its consistent approach in denying benefits to the assessee.

28. The elementary need of following a consistent approach for subsequent AYs, when there is no material change in the facts, is also stressed upon by this Court in the case of **CIT v. Neo Poly Pack (P) Ltd.** [2000 SCC OnLine Del 1054], which clearly demonstrates the requirement to follow the principle of consistency in taxation matters. The relevant paragraph of the said decision reads as under:-

> ***"6.*** *Having heard Mrs. Prem Lata Bansal, learned counsel for the Revenue, and Mr. Salil Aggarwal, learned counsel for the respondent, we are of the view that no fault can be found with the order of the Tribunal declining to make a reference on the proposed question.* ***It is true that each assessment year being independent of the other, the doctrine of res judicata does not strictly apply to income-tax proceeding's, but where an issue has been considered and decided consistently in a number of earlier assessment years in a particular manner, for the sake of consistency, the same view should continue to prevail in subsequent years unless there is some material change in the facts. In the present case, learned counsel for the Revenue has not been able to point out even a single distinguishing feature in respect of the assessment year in question which could have prompted the Assessing Officer to take a view different from the earlier assessment years, in which the same income was brought to tax as income from business."***

29. Furthermore, in the landmark case of **Radhasoami Satsang v. CIT** [AIR 1992 SC 377], the Hon'ble Supreme Court while recognizing the importance of a consistent approach by the respondent-Revenue in taxation matters, held as under:-

> ***"16.*** *We are aware of the fact that strictly speaking res judicata does not apply to income tax proceedings. Again, each assessment year being a unit, what is decided in one year may not apply in the following year but where a fundamental aspect permeating through the different assessment years has been found as a fact one way or the other and parties have allowed that position to be sustained by not challenging the order, it would not be at all appropriate to allow the position to be changed in a subsequent year.*

***17. On these reasonings in the absence of any material change justifying the Revenue to take a different view of the matter — and if there was no change it was in support of the assessee — we do not think the question should have been reopened and contrary to what had been decided by the Commissioner of Income Tax in the earlier proceedings, a different and contradictory stand should have been taken****. We are, therefore, of the view that these appeals should be allowed and the question should be answered in the affirmative, namely, that the Tribunal was justified in holding that the income derived by the Radhasoami Satsang was entitled to exemption under Sections 11 and 12 of the Income Tax Act of 1961."*

30. Reliance can also be placed upon the decision of the High Court of Judicature at Allahabad in the case of **CIT v. Swami Omkarananda Saraswati Trust** [2023 SCC OnLine All 2809], wherein, the Court, while following the principle of consistency in taxation matters, accentuated on the goals of transparency, predictability and certainity on the part of the respondent-Revenue. Paragraphs 9 and 10 of the said decision read as under:-

*"**9.** While none may successfully contend or invoke res judicata in taxation matters, at the same time, in the absence of any difference of fundamental fact or law arising in the subsequent assessment year and in the face of the same dispute having been thrashed out inter partes in earlier assessment year and a definite opinion having been formed by the Tribunal for the same as had also attained finality and has been consistently applied in the case of the assessee itself (over different assessment years), which orders have also attained finality, the rule of consistency would commend that view to prevail, in all succeeding assessment years.*

***10. To allow the Revenue to reagitate decided issues solely because each assessment year is a separate unit for which a fresh assessment order is to be passed, would be to make a mockery of judicial decision-making. Revenue goals apart, the primary need of good tax administration remains transparency, predictability and certainty. The Revenue may seek to take a different view over same or similar facts involved in different years, based on different appreciation of such facts, arising primarily from different officers coming to deal with those facts in different assessment years****."*

31. Accordingly, we find that the assessment order dated

22.12.2019 and the order passed by the revisional authority dated 27.03.2021 suffer from material perversity.

32. The writ petition is accordingly allowed and the impugned orders are hereby, set aside. The receipt of Rs.5,90,42,892/- shall not be treated as income and the assessee is entitled for exemptions enshrined under Sections 11 and 12 of the Act.

33. The petition thus stands allowed and disposed of alongwith the pending application(s), if any.

**YASHWANT VARMA, J.**

**PURUSHAINDRA KUMAR KAURAV, J.**

**FEBRUARY 5, 2024/p**