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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

J U D G M E N T

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 erred in not appreciating that the activities of the Assessee-society/Respondent-herein are in the nature of trade, commerce or business, and thus the benefit of exemption under Section 11 & Section 12 of the



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