IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.194 of 2009

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1. The Commissioner of Income Tax-1, Patna
2. Assistant Commissioner of Income Tax Circle – II, Patna

.... Appellant/s

Versus

M/S Alkem Laboratories Ltd. Exhibition Road, Patna.

.... Respondent/s

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Appearance :
For the Appellant/s : Mrs. Archana Sinha, Sr. S.C.
For the Respondent/s : Mr. Ajay Rastogi, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL ORDER
(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

8 01-05-2015 Heard learned Senior Standing Counsel for the Income Tax Department and learned counsel for the respondents.

The appeal has been filed against the order dated 28.08.2008 passed by Income Tax Appellate Tribunal in IT (SS) (15)/ Pat/2007 for the block assessment years 1997-98 to 2003-04 allowing the appeal of the assessee.

Learned counsels for the parties pointed out that so far as the addition of Rs. 4.72 crores was concerned, the matter was remanded by the ITAT with the direction that the Assessing Officer will go through the reconciliation submitted by the assessee, give an opportunity to the assessee to explain the contents and furnish any other materials and decide the issue afresh in the light of the observation made by the Tribunal. Pursuant to the same, the said amount of Rs. 4.72 crores which pertains to payment of excise duty was reconciled on the basis of the detailed reply filed by the assessee and upon matching the assessee's material, it was found that discrepancy remained only to the extent of Rs. 1.40,000/- and the rest of the amount stood explained. The Assessing Officer, Assistant Commissioner of Income Tax, Circle-2, Patna has accordingly, passed his assessment order on remand on 30.12.2009 which has not been appealed against either by the Revenue or the Assessee.

Learned counsels submit that in the aforesaid situation, the remaining part of the appellate order relates to setting aside of addition to the extent of about Rs. 5.87 lacs only of which the tax effect would be much lower than the limit prescribed by the Central Board of Direct Taxes.

No question of law of a recurring nature arising in the matter could also be pointed out by learned counsel for the appellant.

In the aforesaid view of the matter, the appeal being not entertainable in the light of the CBDT circular is, accordingly, dismissed.

(Ramesh Kumar Datta, J)

(Anjana Mishra, J)

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