IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.707 of 2010

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Jcit Range 1 ,Muzaffarpur

.... Appellant/s

Versus

Kanhaiya Prasad

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Archana Sinha

For the Respondent/s : Mr.

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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)

2 21-04-2015 Heard learned Senior Standing Counsel for the appellant, Income Tax Department.

The appeal has been filed against the order dated 23.03.2010 passed by the Income Tax Tribunal, Patna Bench, Patna in I.T.A. No. 10/PAT/2010 with respect to the assessment year 2005-2006.

The appeal before the Tribunal was filed by the assessee raising various grounds and only on one of the grounds, the appeal was allowed, namely, the Assessing Officer and the C.I.T. (Appeal) had wrongly not directed the depreciation to be separately allowed when net profit has been estimated and the Assessing Officer was accordingly directed by the Tribunal to allow the depreciation provided the assessee has made a claim to the aforesaid effect before the Assessing Officer in terms of Section 32 of the Income Tax Act.

Learned counsel for the appellant has sought to assail the aforesaid order but the said contention of the revenue is in fact contrary to the Circular No. 29D(XIX-14) of 1965 issued by the CBDT. The Tribunal has also relied upon several earlier decisions of the Tribunal including in the assessee's own case.

We do not see any reason to disagree with the view taken by the Tribunal. No substantial question of law arises in the matter.

The appeal is, accordingly, dismissed.

(Ramesh Kumar Datta, J)

(Anjana Mishra, J)

Saif/-Jagdish

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