**NAFR**

## HIGH COURT OF CHHATTISGARH, BILASPUR

**Tax Case No. 45 of 2010**

Commissioner of Income Tax, Raipur, District Raipur, Chhattisgarh.

**---- Appellant**

**Versus**

M/s Lal Ganga Builders Private Limited Lal Ganga Chamber, M.G. Road, Raipur, Chhattisgarh.

**---- Respondent**

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For Appellant : Ms. Naushina Afrin Ali, Advocate.
For Respondent : Shri S.R. Rao, Advocate.

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**HON'BLE SHRI NAVIN SINHA, CHIEF JUSTICE &**
**HON'BLE SHRI P. SAM KOSHY, J.**

**Order On Board**

**Per NAVIN SINHA, C.J.**

**12/5/2015**

**1.** The present appeal under Section 260-A of the Income-Tax Act, 1961 arises from order dated 30.7.2009 passed by the Income-Tax Appellate Tribunal, Bilaspur Bench at Bilaspur.

**2.** We have considered the submissions on behalf of the parties. The decision of the Assessing Officer under Section 40A(2)(a) that an expenditure was excessive and unreasonable is a matter of subjective opinion amenable to correction on facts by the Tribunal. It does not involve any question of law being purely an assessment of a fact, as opined based on a subjective decision making process.

**3.** Learned Counsel for the Respondent in this context has placed before us an order of the Supreme Court in Civil Appeal Nos. 2396 and 2397 of 1978 dated 4.12.1978 holding to that effect.

**4.** The appeal does not raise any substantive question of law requiring consideration by us, but involves only determination of issues based on facts.

**5.** We fail to understand the justification for filing of the appeal if the order of the Supreme Court on a similar question had already been pronounced as far back as 4.12.1978.

**6**. The appeal is dismissed.

(Navin Sinha)
**CHIEF JUSTICE**

(P. Sam Koshy)
**JUDGE**

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