IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

INCOME TAX APPEAL NO. 49/2010.
The Commissioner of Income Tax-IV, Nagpur.
-**VERSUS**-
Shri Ratan Babulal Poddar, Nagpur.

INCOME TAX APPEAL NO. 152/2010.
The Commissioner of Income Tax-IV, Nagpur.
-**VERSUS**-
M/s. Beralia Road Lines Pvt. Ltd.

Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Shri S.N. Bhattad, Advocate for the Appellant.
Shri L.S. Dewani, Advocate for the Respondent.

CORAM : SMT.VASANTI A. NAIK AND A.M. BADAR, JJ.

DATE : JULY 23, 2015.

Heard.

Since, the issue involved in these Income Tax Appeals is identical and since they arise from similar orders passed by the Income Tax Appellate Tribunal, they are heard together and are decided by this common order.

The respondents – assessees were engaged in the business of transportation. Admittedly, each trip was under a separate goods receipts note, which was for less than Rs.20,000/-. According to the assessees since each individual payment was for less than Rs.20,000/-, it was not necessary for the assessees to deduct T.D.S. The Assessing Officer however, held that the assessee was liable to deduct the tax at source under Section 194C of the Act of 1961. Aggrieved by the orders of the Assessing Officer, the assessees preferred the appeals before the CIT (Appeals). It was pointed out by the assessees to the Appellate Authority, that there was no liability to deduct the tax at source, if the amount paid in pursuance to each contract does not exceed Rs. 20,000/-. The Appellate Authority, on a consideration of the submission made by the Assessees, held that the assessees were not liable to deduct the tax on each payment prior to 01.10.2004, as the first proviso to Section 194C of the Act of 1961 was prospective in nature. Being aggrieved by the orders of the CIT (Appeals), the appellant / department filed appeals before the Income Tax Appellate Tribunal. The Income Tax Appellate Tribunal, by a common order dated 14.07.2009, dismissed the appeals filed by the department. The appellant/ department has challenged the orders of the CIT (Appeals) and the Income Tax Appellate Tribunal in separate Income Tax Appeals. The appeals were dismissed by this Court by an order dated 12.10.2011. It was held by this Court that no substantial question of law was involved in the appeals. The appellant / department carried the orders of this Court, as also the Appellate Authority to the Hon'ble Supreme Court, and the Hon'ble Supreme Court, has by the orders dated 07.02.2014 disposed of the Civil Appeals filed by the department and remanded the matters to the High Court, for deciding the same in accordance with law.

On hearing the learned counsel for the parties at length and on a perusal of the orders of the CIT (Appeals) and the Income Tax Appellate Tribunal in detail, in our humble view, we do not find that any substantial question of law arises for consideration in these appeals. Though Four substantial questions of law are stated by the appellant / department in the memorandum of appeals, we find that those are not substantial questions of law. Admittedly, the respondents / assessees were engaged in the business of transportation and the expenditure on account of transportation in respect of each of the freight receipt was less than Rs. 20,000/-, as per the goods receipt notes. The CIT (Appeals) and the Appellate Tribunal has rightly considered circular No. 715, dated 08.09.1995 issued by the CBDT and the fact that undisputedly each of the goods receipt note was for a sum of less than Rs. 20,000/-, to hold that the respondents/ assessees were not defaulters within the meaning of the provisions of Section 194C of the Act. In view of the admitted factual position, we do not find that any substantial question of law arises for consideration in these appeals. Merely because the department has mentioned some substantial questions of law in the memorandum of appeals, the appeals cannot be admitted.

In view of the aforesaid, the income tax appeals are dismissed with no order as to costs.

JUDGE **JUDGE**

Rgd.