IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.661 of 2014

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1. The Commissioner Of Income Tax-11, Patna.

2. Income Tax Officer Ward-5 (4), Patna.

.... Appellants

Versus

Sri Pitambar Lal Agarwal S/O Shri Shivram Agarwal, Rajgarhia Bhawan, Kadamkuan, Patna-3

.... Respondent

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Appearance :

For the Appellants : Mr. Rishi Raj Sinha, Sr. Standing Counsel Income Tax

Mrs. Archana Prasad, Jr. SC. Income Tax

For the Respondent : Mr.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

3 10-03-2016 The Revenue is in appeal being aggrieved against an order dated 03.07.2014 passed by the Income Tax Appellate Tribunal, Patna Bench, Patna, in ITA No. 84/Pat/2010 for the assessment year 2005-06. By the aforesaid order, the learned Tribunal has dismissed the appeal filed by the Revenue against the deletion of addition of Rs. 41,00,000/- made by the Assessing Officer and by the Commissioner of Income Tax (Appeals).

2. The Revenue has framed the following questions of law for consideration by this Court:-

> "(1) Whether the Hon'ble ITAT was correct in placing reliance on the case reported in 159 ITR 78 (SC) and 264 ITR 254 (Gau) in the present case?
>
> (2) Whether credit worthiness can be addressed by merely filing return of income tax and in absence of any positive evidence?"

3. A perusal of the order of the Commissioner of Income Tax (Appeals) shows that addition of Rs.41,00,000/- was made in the income of the assessee on account of loans which had been obtained from five individuals during the relevant assessment year 2005-06. The Tribunal set aside the part of addition amounting to Rs.41,00,000/-. Thus the tax effect is less than Rupees twenty lacs.

4. Learned counsel for the petitioner has drawn our attention to a Circular of the Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, New Delhi, dated 10.12.2015, whereby the appeal pending before the High Court having tax effect of less than Rupees twenty lacs are not to be filed.

5. Since the tax effect on account of deletion of addition of amount of Rs.41,00,000/- would be less than Rupees twenty lacs, in view of the Circular mentioned above,

this appeal cannot be maintained by the revenue before this Court.

6. The appeal is accordingly dismissed.

(Hemant Gupta, J)

(Ramesh Kumar Datta, J)

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