IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.732 of 2014

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Additional Commissioner of Income Tax, Cirle-1, Patna

.... Appellant

Versus

Dr. Binay Kumar Singh (HUF), H -21, DOCTORS's COLONY, KANKARBAGH, PATNA

.... Respondent

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Appearance :

For the Appellant : Mrs. Archana Sinha, Advocate.
Mr. Alok Kumar, Advocate.
Mrs. Shalini Bihari, Advocate.

For the Respondent : Mr.

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

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 16-03-2016

Heard learned counsel for the appellant.

2. The Revenue is in appeal being aggrieved by an order passed by the Income Tax Appellate Tribunal, Patna Bench, Patna on 17th of July, 2014, whereby IT(SS)A. No. 27(Pat)/2011 for the Assessment Year 1999-2000 was allowed by the Tribunal in favour of the assessee.

3. As per the facts on record, search and seizure operation under Section 132 of the Act was conducted on 05th of November, 2004 at the residential premises of Dr. Rajeshwar Prasad Singh, his family members and associates. The Karta of the assessee is the son of said Dr. Rajeshwar Prasad Singh. The learned Assessing Officer made addition of Rs. 4,00,285/- in the relevant Assessment Year in question. Learned Tribunal has allowed the appeal and deleted the addition so made.

4. A perusal of the order of the Commissioner of Income-tax, (Appeals) shows that addition of Rs.4,00,285/- made in the income of the assessee was

held to be for non-business purposes during the relevant Assessment Year 1999-2000. The Tribunal set aside that part of addition amounting to Rs. 4,00,285/-. Thus the tax effect is less than Rupees twenty lacs.

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

6. Since the tax effect on account of deletion of addition of amount of Rs.4,00,285/- would be less than Rupees twenty lacs, therefore, in view of the Circular mentioned above, this appeal cannot be maintained by the revenue before this Court.

7. Accordingly, this appeal is dismissed.

(Hemant Gupta, J)

(Ramesh Kumar Datta, J)

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