IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.391 of 2008

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Assistant Commissioner of Income Tax, Central Circle-I, Patna.

.... Assessing Officer/Appellant

Versus

Hitesh Chandak, son of Dipesh Chandak, R/o-14A, FMC Fortuna, 234/3A, AJC Bose Road, Koktakka

.... Assessee/Respondent/s

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Appearance :

For the Appellant/s : Smt. Archana Sinha, Sr. S.C.
Mr. Alok Kumar, Advocate
Mrs. Shalini Bihari, Advocate.

For the Respondent/s : Mr. D.V.Pathy, Advocate.
Mrs. Manju Jha, Advocate
Mr. Sada Shiv Tiwari, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)
Date: 27-09-2016

Heard learned counsel for the parties.

2. The present appeal, under Section 260A of the Income Tax Act, 1961, arises out of an order passed by the Income Tax Appellate Tribunal, Patna Bench Patna on 29th February, 2008 in I.T.A.No. 35/Pat/2006 for the assessment year 1997-98.

3. In the aforesaid case, the Assessing Officer made an assessment holding that the assessee is liable to pay tax on income of Rs. 3,52,35,130/- including protective income of Rs. 3,33,54,503/-. The income on protective assessment was set aside by the Commissioner of Income Tax (Appeal) and upheld by the Income Tax Appellate Tribunal.

4. It is conceded by the learned counsel for the parties that

substantive assessment has since been made in respect of the income assessed by way of protective assessment as income in the hands of Dipesh Chandak. Therefore, we do not find any substantial question of law arises in respect of protective income as assessed by the Assessing Officer. However, if the substantive assessment is set aside in Appeal or otherwise, revenue would have liberty to seek revival of the present proceedings.

5. The remaining amount of Rs. 15,45,000/-, which is the subject matter of appeal, is less than the monetary limit in respect of which the revenue has decided not to dispute the assessment in terms of Central Board of Direct Taxes Circular No. 21 of 2015 dated 10th December, 2015.

6. Since the remaining amount is less than the amount in respect of which revenue has taken conscious decision not to raise dispute, therefore, the question of deletion of said income is not adjudicated upon in the present appeal. The present appeal is accordingly dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	06.10.2016
Transmission Date	