

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.568 of 2007

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Pandooi Place, Patna Patna, a partnership firm having its office at Pandooi Place, Boring Road, Patna, P.S. Budha Colony, Patna through its partner, Sri Ranjan Kumar, son of Sri Bameshwar Prasad Narayan Singh, resident of Pandooi Place, Boring Road, P.S. Budha Colony, Distt. Patna

.... Appellant/s

Versus

1. Income Tax Appellate Tribunal, Patna Bench, Patna
2. The Commissioner of Income Tax-1, Patna
3. Income Tax Officer, Ward 1 (5), Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. D.V.Pathy, Advocate

For the Respondent/s : Mr. Rishi Raj Sinha, Advocate
Mrs. Archana Prasad, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 03-04-2017

Prayer made for dispensation with filing certified copy of the order is allowed in view of the fact that the same is filed in M.A. No.567 of 2007.

In this appeal filed by the assessee under Section 260A of the Income Tax Act, even though various substantial questions of law are formulated, but on going through the records and after hearing learned counsel for the parties, we find that with regard to the same assessee for the assessment year 1994-1995 upto 1998-1999, i.e. for 4 assessment years, a consolidated order was passed by the Income Tax Appellate Tribunal, Patna and by an order



passed on 6th of February, 2007, assessee's appeal was dismissed and the order passed by the Commissioner, Income Tax Appeal, upheld.

Challenging the said order passed on 6th of February, 2007, by the tribunal, the assessee approached this Court in Miscellaneous Appeal No.567 of 2007 and for the assessment year 1998-1999, a co-ordinate Bench of this Court on 18.11.2016 considered the following substantial questions of law which arose for consideration:

“4. In the present appeal, the following substantial question of law was framed on 29th January, 2015:

“Whether in the facts and circumstances of the case rental income derived from the constructed building from letting out the property by name ‘Pandooi Place’ constitutes an income from house property or income from business?”

In this case also, we are of the considered view that the same question of law is only required to be considered and learned counsel for the assessee argues that as the question of law formulated in M.A. No.567 of 2007 has been answered in favour of the assessee, they would be satisfied if this appeal is also allowed and disposed of in identical terms.

Having considered the same, we find that with regard to the same order of assessment different appeals were filed being M. A. No.567, 569 and 570 of 2007. One of the appeals i.e. 568 of



2007 is listed today and in M.A. No.567 of 2007, in which the substantial question of law, as indicated hereinabove, was framed, has already been decided in favour of the assessee, in this appeal also, the same substantial questions of law are to be considered.

Accordingly, for the grounds and reasons already considered and decided by a co-ordinate Bench of this Court on 18.11.2016 in M.A. No.567 of 2007, we allow the appeal of the assessee to the same extent and grant identical relief to the appellant.

This appeal also stands disposed of in identical terms as the order dated 18.11.2016 passed in M.A. No.567 of 2007 with regard to the same assessee.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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Transmission Date	N/A

