IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.566 of 2007

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Pandooi Place, 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 Rameshwar 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 Commission 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, Sr. S.C.
Mrs. Archana Prasad, Jr. S.C.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 10-04-2017

Ignoring the office objections pointed out and considering the fact that identical issue pertaining to the same assessee under Section 260A of the Income Tax Act has already been decided by this Court in Miscellaneous Appeal No.568 of 2007, we take up the matter for consideration.

This is an appeal filed by the assessee under Section 260A of the Income Tax Act calling in question tenability of order dated 6.2.2007 passed by the Income Tax Appellate Tribunal, Patna pertaining to assessment year 1996-1997. The question involved in this appeal is identical to the question that was considered for previous assessment years 1994-1995 upto 1998-1999 and identical orders passed by the Income Tax Appellate Tribunal, Patna on 6th of February, 2007. The orders pertaining to the previous assessment years were challenged before this Court in Miscellaneous Appeal No.567 of 2007, wherein the issue pertained to the assessment year 1998-1999, wherein a co-ordinate Bench of this Court on 18.11.2016 considered the appeal with respect to the following substantial question of law :

> "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?"

and allowed the appeal vide a detailed order passed on 18.11.2016 and taking note of the aforesaid order passed on 18.11.2016 in Miscellaneous Appeal No.567 of 2007. Appeal for previous years, namely, Miscellaneous Appeal No.568 of 2007 has already been allowed and disposed of by this Court recently on 3.4.2017.

Finding the same question involved in this appeal also, this appeal is also allowed and disposed of on identical terms as are contained in the order dated 18.11.2016 passed in Miscellaneous Appeal No.567 of 2007 and on 3.4.2017 in Miscellaneous Appeal

No.568 of 2007.

The Appeal stands disposed of in terms thereof.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Narendra/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	18.04.2017
Transmission Date	