IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.569 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 Commissioner of Income Tax-1, Patna
3. Income Tax Officer, Ward 1(5), Patna

.... Respondent/s

with

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Miscellaneous Appeal No. 570 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

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

.... Respondent/s

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Appearance :

(In MA No.569 and 570 of 2007)

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

For the Respondent/s : Mr. Rishi Raj Sinha, Sr. SC

For Income Tax Deptt. Mrs. Archana Prasad, Jr. SC

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

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 27-03-2017

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

In these appeals 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 6^{th} 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 6^{th} 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 29^{th} 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 these cases 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 these appeals are 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. Two of the appeals i.e. 567 and 570 of 2007 are 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 these appeals 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 appeals of the assessee to the same extent and grant identical relief to the appellant.

These appeals also stand 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
Uploading Date	1.4.2017
Transmission Date	N/A