IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.299 of 2007

==

1. Commissioner of Income Tax (Central), Patna
2. Asstt. Commissioner of Income Tax, Circle-1, Patna.

... ... Assessing Officer/Appellants

Versus

Sri Kamal Mallik, C/o Vijay Kumar Mallik, 1/158, Gali Bagichi Wali, Punja Sharif, Kashmere Gate, Delhi – 110 006.
Sole respondent died and in his place the following legal heirs are substituted:-
(i). Sri Vijay Mallik (S/o Deceased), resident of Goyla Lane, Rajpur Road, New Delhi – 6
(ii). Sri Saurav Mallik, (S/o Deceased), resident of Goyla Lane, Rajpur Road, New Delhi – 6
(iii). Smt. Shreya Mehra (D/o Vijay Mallik), W/o Sri Amit Mehra, resident of Goyla Lane, Rajpur Road, New Delhi – 6

... ... Assessee/Respondents

==

Appearance :
For the Appellant/s : Mr. Rishiraj Sinha, Sr. S.C.
For the Respondent/s : Mr. Sadashiv Tiwari, Advocate

==

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 11-12-2018

Heard Mr. Rishiraj Sinha, learned Sr. Standing Counsel for the Income Tax Department and Mr. Sadashiv Tiwari, learned counsel for the respondents.

A discussed order has already been passed by us in so far as the merit of the contest is concerned on 07.12.2018. We have already recorded our expression that the order passed by the Income Tax Appellate Tribunal dated 08.02.2007 in ITA No. 262/Pat/05 requires no interference.

This matter was posted today as our attention was drawn towards a Circular of the Central Board of Direct Taxes dated 11.07.2018 which advises the Department not to contest appeals or writ petitions pending before the High Court in which the subject matter of dispute is Rs. 50 Lacs or below. An exception to such advisory is carved out at paragraph 10 i.e. cases where the issue raised, is covered under a judicial pronouncement.

In so far as the present case is concenred, there is no pronouncement covering the issue rather the opinion of the Income Tax Authorities as affirmed until the Tribunal would confirm that the opinion expressed is in tune with the statutory provison underlying the Income Tax Act, 1961.

Thus, neither on merits nor in the view of the Advisory dated 11.07.2018, we are persuaded to interfere with the order impugned.

This Appeal is, accordingly, dismissed.

(Jyoti Saran, J)

(Rajeev Ranjan Prasad, J)

Arvind/Rajeev

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	