NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

TAXC No. 68 of 2018

{Arising out of Order dated 12.01.2018 passed in IT (SS) A No. 32/RPR/2013 by the Income Tax Appellate Tribunal, Raipur Bench, Raipur}

- Deputy Commissioner of Income Tax 2 (1), Revenue Building, Civil Lines, Raipur (C.G.)

---- Appellant

Versus

- Shri Chhaganlal Mundra, C-8, Ashok Towar, Shankar Naagar, Raipur (C.G.)

---- Respondent

For Appellant : Ms. Naushina Afrin Ali, Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Sanjay K. Agrawal, Judge

Judgment on Board

Per P. R. Ramachandra Menon, Chief Justice

25.06.2019

1. This case has been preferred by the Department/Revenue suggesting some questions as involving in substantial question of law in terms of Section 260A of the Income Tax Act.

2. When the matter is taken up for consideration, the learned Standing counsel for Department submits that the issue involved is mainly with regard to the proceedings finalised by the Assessing Officer with reference to certain undisclosed income based on some 'diary entries' and 'loose sheets' found in the course of search and seizure. The Commissioner of Income Tax (Appeals) set aside the assessment order and on being aggrieved with the same, the Department sought to prefer an appeal before the Tribunal. After assessing the

facts and figures, the Tribunal declined interference and the appeal was dismissed, which is subjected to challenge in this appeal preferred under Section 260A of the Income Tax Act.

3. The learned Standing counsel for the Department fairly submits that the question involved is no more *res integra*, insofar as the legal position has been made clear by the Apex Court in ***Common Cause (A Registered Society) & Others Vs. Union of India & Others*** passed in Writ Petition (Civil) No. 505 of 2015 on 11.01.2017, that the 'diary entries' and the 'loose sheets' stated to be recovered from the premise of the Assessee cannot be the basis, treating it to be evidence, for finalising the assessment. This being the position, it is stated that the matter could be finalised in terms of the verdict passed by the Apex Court on 11.01.2017 in I.A. Nos. 3 and 4 of 2017 in Writ Petition (Civil) No. 505 of 2015. A copy of the said verdict is placed for perusal of this Court and we have gone through the same.

4. In view of the submission made across the bar, we are of the view that no substantial question of law is involved and the issue stands covered against the Revenue and in favour of the Assessee.

5. In the said circumstances, the appeal stands dismissed, being devoid of merits.

Sd/- Sd/-

(P.R. Ramachandra Menon)
Chief Justice

(Sanjay K. Agrawal)
Judge

Hem