IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.387 of 2017

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Vishnu Kant Gupta, Son of Shri Vaidyanath Prasad, Resident of Balua Tal, P.O.- Motihari, P.S.- Motihari Town, Motihari, District- East Champaran.

... ... Appellant/s

Versus

Assistant Commissioner of Income Tax, Central Circle, Muzaffarpur

... ... Respondent/s

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Appearance :

For the Appellant/s : Mr.Asif Kalim, Advocate
For the Respondent/s : Mrs. Archana Sinha, Sr. S.C., Income Tax

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 05-10-2023

The appeal is filed only with respect to the addition of Rs. 7,66,990/- made by the Assessing Officer on account of source of income regarding such expenses incurred for the education of children having not been substantiated. The learned counsel before us claimed that many of the additions made were modified by the first appellate authority on the ground that the assessee had sufficient income to purchase a car and a rifle. In such circumstance, the finding that assessee had not explained the source of income for the money spent on the children's education cannot at all be sustained.

2. We have to immediately notice the explanation put forth by the assessee to explain the source of income regarding

the specific expenditure as available in the assessment order. The assessee claimed by reply dated 29.07.2002, as available in Paragraph 10.2 of the assessment order, that the expenses were met out of the sale proceeds of the lichi orchard financed by his uncle Shri Devnath Prasad, money received from Mr. Lal Bhai Desai, who is a friend of the assessee and from his own wife and the wife of his younger brother, the last person having disclosed an income of Rs. 7,20,000/- under the V.D.I. Scheme of 1997.

3. It was noticed by the Assessing Officer that none of the explanations were supported with substantiating evidence. There was no documentary evidence regarding the lichi orchard or the money received from the individuals named. The expenses met by one Lal Bhai Desai was not substantiated. As far as the account of the wife is concerned, the withdrawals were meagre and not to the extent of the entire amounts spent for the children's education. The Assessing Officer all the same permitted a deduction of 50 per cent and added only half of the amounts proposed. The Tribunal also found that there was absolutely no evidence proffered to explain the source of income, of the amounts spent on the children, for their education.

4. The question of income of the assessee itself being available, does not arise at all, considering the explanation

proffered by the assessee to the Assessing Officer.

5. We find absolutely no question of law arising from the order and reject the appeal.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

P.K.P./-

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