

M/S Messina Beej Private Limited, A company incorporated under Indian Companies Act, 1956

Civil Writ Jurisdiction Case No.14645 of 2021

FORUM

Patna High Court

ORDER DATE

01 Aug 2023

NOTE TYPE

Source extract

01 CONCLUDING COURT PASSAGE - SOURCE EXTRACT

The income so alleged; to have escaped assessment should thus have a live link with the formation of belief by the Assessing Officer. 12. In the present case as has been found in Ravindra Kumar (HUF) (supra), the belief entertained by the Assessing Officer is only on the premise that there was nothing produced by the assessee in pursuance of a notice under Section 133(6); regarding the agricultural income, which was shown as exempted income under the returns and accepted by the Assessing Officer. There was no tangible material on which the Assessing Officer proceeded under Section 147 and in that circumstance it is a mere change of opinion which is, as held in Kelvinator of India (supra), a review in the garb of reopening the assessment. 13. On the above reasoning, it has to be held for the two assessment years, that the proceedings were issued without jurisdiction, since the reassessment initiated under Section 147 was not on any tangible material and there was nothing available with the Assessing Officer to entertain a belief that the assessee had wrongly claimed exemption of the agricultural income or of the unsecured loans. The agricultural income shown as exempted in the return was accepted by the Assessing Officer initially and so were the unsecured loans. There is no scope for a review of the same and when there was nothing available with the Assessing Officer, there could not be a reopening of assessment, under Section 147. Both the assessment orders challenged in the writ petitions are set aside. 14. The writ petitions stand allowed.

SOURCE & VERIFICATION

Supplied court copy / compilation pp. 756-763

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