Commissioner Of Income Tax vs Shri Roshan Lal Lodha

ID: F2J-C-2625 **Court:** Rajasthan High Court - Jodhpur
Case: D.B. INCOME TAX APPEAL NO.185/2014 **Date:** 2015-11-03

[Cites 1, Cited by 3]

Rajasthan High Court - Jodhpur Commissioner Of Income Tax vs Shri Roshan Lal Lodha on 3 November, 2015 Author: Govind Mathur Bench: Govind Mathur [1]

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

JUDGMENT

D.B. INCOME TAX APPEAL NO.185/2014

Commissioner of Income Tax, Udaipur Versus Shri Roshan Lal Lodha

Date of Judgment :: 03.11.2015

PRESENT HON'BLE MR. JUSTICE GOVIND MATHUR HON'BLE MISS JUSTICE JAISHREE THAKUR

Mr. K.K. Bissa for the appellant

BY THE COURT : This appeal is preferred to question validity and correctness of the judgment dated 03.04.2014 passed by learned Income Tax Appellate Tribunal, Jodhpur Bench, Jodhpur affirming the order dated 28.10.2013 passed by learned Commissioner, Income Tax (Appeals), Udaipur. In brief, facts of the case are that during the course of the survey as per Section 133-A of the Income Tax Act, 1961, certain incriminating documents came into notice of the survey team and the assessee on the basis of that surrendered an amount of Rs.27,00,500/- against purchase of land and cash of Rs.9,70,500/- was also found and that was treated as undisclosed income on basis of a statement made by the [2] assessee. The assessing officer as a consequence to the survey and the statement made by the assessee during the course of survey added the undisclosed and unexplained amount with taxable income. The same was challenged by way of filing an appeal before the Commissioner, Income Tax (Appeals), Udaipur. Learned Commissioner accepted the appeal relying upon the judgment of Hon'ble Supreme Court in CIT Vs. S. Khader Khan Son reported at (2012) 25 taxmann.com 413 (SC). In the case aforesaid, Hon'ble Apex Court held that Section 133-A of the Income Tax Act does not empower Income Tax officer to examine any person on oath; hence, the statement recorded under Section 133-A has no evidentiary value and any admission made during such statement cannot be made basis of addition. The appeal preferred by the revenue before the Income Tax Appellate Tribunal came to be dismissed by the judgment impugned. Learned counsel appearing on behalf of the appellant submits that the assessee in the instant matter did not retract from his statement, therefore, the law laid down in the case of S. Khader Khan Son (supra) is not applicable. We do not find any merit in the argument advanced. The assessee filed an appeal before the [3] Commissioner, Income Tax (Appeals), with specific assertion that the statement made by him would have not been accepted to make any addition and therefore, his denial is apparent. In view of it, the orders passed by the Commissioner, Income Tax (Appeals) and the Income Tax Appellate Tribunal do not suffer from any wrong. The appeal is having no substantial question of law. Hence, the same is dismissed. [JAISHREE THAKUR], J. [GOV IND MATHUR], J. Pramod