

The Commissioner Of Income Tax, Bhopal vs Rajendra Kumar Bhandari Judgement ... on 22 April, 2014

I.T.A.No.190/2012

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The Commissioner of Income Tax Bhopal Vs. Rajendra Kumar Bhandari

22/04/2014

Shri Sanjay Lal, learned counsel for the appellant. This is revenue's appeal under Section 260A of the Income Tax Act, 1961 calling in question the tenability of an order dated 4.5.2012 passed by the Income Tax Appellate Tribunal in I.T.A.No.50/Ind/2012.

A search and seizure was conducted in the premises of the assessee under Section 132(1) on 2.11.2004. Notice under Section 153-A was issued and the assessee was subjected to assessment and an order of assessment was passed on 29.12.2006. Aggrieved by an order of assessment, an appeal was filed before the Commissioner and the Commissioner has allowed the appeal and permitted certain deductions. However, an appeal was filed by the Department before the tribunal and the tribunal having rejected the same, this appeal has been filed.

The only ground raised in this appeal is as to whether the action of the Assessing Officer in arriving at a conclusion that the assessee has not fulfilled the conditions stipulated under Section 80IB(10), which has been interfered with by the appellate authority is permissible or not. It was tried to be emphasized by the counsel that the assessee did not disclose the fact about sale of The Commissioner of Income Tax Bhopal Vs. Rajendra Kumar Bhandari two residential houses in two projects at Barkhera and Anand Nagar, which commenced on 7.6.2001 and 16.2.2001 respectively.

The matter has been considered by the tribunal and the appellate authority and both have found that there is no concealment by the assessee and the addition made without granting the benefit of Section 80B(10) is not proper. In Paragraph-3 and 3.1 of the order passed, the learned tribunal has dealt in detail all the aspects and it has been recorded that there was no fault on the part of the assessee and as the project itself was not completed and project completion certificate was not issued by the local authority to the assessee, the addition was not proper.

The concurrent findings recorded by both the authorities in the matter of granting benefit are found to be correct and we find no substantial question of law, warranting interference by this Court.

The appeal is, therefore, dismissed.

(Rajendra Menon)
Judge

(Anil Sharma)
Judge

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