

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA-PATNA 'E-COURT', KOLKATA
[Virtual Court Hearing]**

**Before Shri Rajpal Yadav, Vice-President
&
Shri Rajesh Kumar, Accountant Member**

**I.T.A. No. 82/PAT/2020
Assessment Year: 2012-2013**

***Income Tax Officer,.....Appellant
Ward-2(1), Patna,
Room No. 403C, 4th Floor,
Lok Nayak Jai Prakash Bhawan,
Patna-800001***

-Vs.-

***M/s. Navyug Homes Pvt. Ltd.,.....Respondent
B-210, Ambition Business Centre,
Jamal Road,
Patna-800001
[PAN:AACCN0742P]***

Appearances by:

*Shri Sanjay Mukherjee, CIT(D.R.), appeared on behalf of the Revenue
Shri A.K. Rastogi, Sr. Advocate, appeared on behalf of the assessee*

Date of concluding the hearing : February 17, 2022

Date of pronouncing the order : February 21, 2022

O R D E R

Per Shri Rajpal Yadav, Vice-President (KZ):-

This appeal is preferred by the Revenue against the order of Id. Commissioner of Income Tax (Appeals), Patna-1 dated 30th June, 2020 for assessment year 2012-13.

2. The Id. counsel for the assessee pointed out that the tax effect by virtue of relief given by the first appellate authority is less than Rs.50,00,000/-. He brought to our notice CBDT Instruction bearing No. 17

of 2019 issued on 8th August 2019, vide which CBDT has directed its subordinate authorities not to challenge the order of Id. CIT(Appeals) before Tribunal if tax effect by virtue of relief given by the Id. CIT(Appeals) is less than Rs.50,00,000/-. Such order could only be challenged if it comes within exceptions provided in the Instruction. According to the Id. counsel for the assessee, this case does not fall in any of the exceptions and, therefore, this appeal is not maintainable. He also pointed out that these Instructions are applicable even on pending appeals. On the other hand, Id. CIT(DR) is unable to controvert the facts.

3. On due consideration of the above facts and circumstances, we dismiss this appeal of the Revenue for want of tax effect. However, in case on re-verification of the facts at the end of the Assessing Officer, it comes out that tax effect is more or this case falls in any of the exceptions provided in this Instruction. Then Revenue will be at liberty to file Miscellaneous Application for revival of this appeal. Such application should be filed within the time limit provided in the Act.

4. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open Court on February 21, 2022.

**Sd/-
(Rajesh Kumar)
Accountant Member**

**Sd/-
(Rajpal Yadav)
Vice-President (KZ)**

Kolkata, the 21st day of February, 2022

- Copies to :*
- (1) ***Income Tax Officer,
Ward-2(1), Patna,
Room No. 403C, 4th Floor,
Lok Nayak Jai Prakash Bhawan, Patna-800001***
 - (2) ***M/s. Navyug Homes Pvt. Ltd.
B-210, Ambition Business Centre,
Jamal Road, Patna-800001***
 - (3) ***Commissioner of Income Tax (Appeals), Patna-1***
 - (4) ***Commissioner of Income Tax ,***
 - (5) ***The Departmental Representative***

(6) *Guard File*

TRUE COPY

By order

*Assistant Registrar
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.