

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

**Before Shri Rajpal Yadav, Vice-President  
&  
Dr. Manish Borad, Accountant Member**

**I.T.A. No. 229/PAT/2019  
Assessment Year: 2011-2012**

***Income Tax Officer,.....Appellant  
Ward-2(1), Patna,  
4<sup>th</sup> Floor,  
Lok Nayak Jai Prakash Bhawan,  
Patna-800001***

**-Vs.-**

***M/s. Atya Adhunik Minerals Processing Pvt. Limited,.....Respondent  
Arya Nagar Colony,  
Bag Malu Kha Road,  
Patna City,  
Patna-800008  
[PAN:AAECA7589D]***

**Appearances by:**

*Shri Saumyajit Dasgupta, CIT(D.R.), appeared on behalf of the Revenue  
None, appeared on behalf of the assessee*

Date of concluding the hearing : August 30, 2022

Date of pronouncing the order : August 30, 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)-1, Patna dated 25<sup>th</sup> July, 2019 for assessment year 2011-12.

2. It has been pointed out by the Director of the assessee-company vide his letter dated 25<sup>th</sup> August, 2022 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 8<sup>th</sup> 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 Director of the assessee-Company, 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.

3. For want of detail, Id. D.R. is unable to controvert the facts submitted on behalf of the assessee.

4. 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 Section 254(2) of the Act.

**5. In the result, the appeal of the Revenue is dismissed.**

Order pronounced in the open Court on August 30, 2022.

**Sd/-**  
**(Dr. Manish Borad)**  
**Accountant Member**

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

***Kolkata, the 30<sup>th</sup> day of August, 2022***

*Copies to : (1) Income Tax Officer,  
Ward-2(1), Patna,  
4<sup>th</sup> Floor,  
Lok Nayak Jai Prakash Bhawan, Patna-800001*

(2) ***M/s. Atya Adhunik Minerals Processing Pvt. Limited,  
Arya Nagar Colony,  
Bag Malu Kha Road,  
Patna City, Patna-800008***

(3) *Commissioner of Income Tax (Appeals-1, Patna;*  
(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.***