

**IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH, JABALPUR
BEFORE SH. KUL BHARAT, VICE PRESIDENT
AND
SH. NIKHIL CHOUDHARY, ACCOUNTANT MEMBER**

ITA No.97/JAB/2024
A.Y.-2012-13

Asstt. Commissioner of Income Tax, Circle-2(1), Jabalpur, Jabalpur, M.P.	vs.	Harishchand Nemichand Dugad, Chhindwara, M.P.
		PAN:AABHH3293K
(Appellant)		(Respondent)

Assessee by:	None
Revenue by:	Sh. Alok Bhura, Sr. DR
Date of hearing:	18.09.2025
Date of pronouncement:	19.09.2025

ORDER

PER NIKHIL CHOUDHARY, A.M.

This is an appeal filed by the Revenue against the orders of the Id. CIT(A), NFAC, passed under section 250 of the Income Tax Act, 1961 on 2.04.2024 wherein the appeal of the assessee against the order of the ACIT, Circle-Chhindwara under section 147 r.w.s. 143(3) dated 19.06.2019 has been partially allowed. The grounds of appeal are as under:-

"1. Whether, on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the disallowance made u/s 801B(10) of the 1. T. Act, 1961 at Rs.1,72,97,959/- without appreciating the facts that project was not completed within five years from the end of the financial year in which the housing project was approved by the local authority as the assessee claimed the deduction ws 801B(10) of the I. T. Act, even in the A.Y 2013-14.

2. Whether, on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition of Rs.1,72,97,959/- while ignoring the departmental inspector's report dated 22.12.2011 as well as Tax Audit Report for the AY 2012-13

which shows that in the financial year 2011-12, the construction work of the housing project was not completed.

3. The appellant reserves the right to add, amend or alter the grounds of appeal on or before the date the appeal is finally heard for disposal.”

2. The facts of the case are that the ld. AO had noticed that the assessee had not satisfied the conditions laid down under section 80IB of the Act to the extent that the construction of the housing project was completed beyond the five year period and the permissible built up area of commercial establishments. He, therefore, disallowed the deduction of the claim of the assessee under section 80IB of the Act. However, the ld. CIT(A) granted relief to the assessee in view of his finding that the commercial establishment build by the assessee was not taken into consideration in Form 10 CCB of the audit and no deduction under section 80IB had been claimed by the assessee in respect of the commercial portion which had not adhered to the maximum permissible time limit as laid down in the Act. Furthermore, the ld. CIT(A) has observed that section 80IB had been amended from 1.04.2010 with regard to the extent of commercial built up area and the same was less than the prescribed limits in the case of the assessee.

3. Aggrieved with such order of the ld. CIT(A), the Department had come in appeal. However, on the appointed date of hearing, Sh. Alok Bhura, Sr. DR invited our attention to a copy of the letter of the ITO (HC and CAT) of the office of Pr. CIT-1, Jabalpur wherein due to CBDT Circular No.9/2024 dated 17.09.2024, the CBDT had revised the monetary limit of filing of appeals before the Income Tax Appellate

Tribunal to Rs. 60 Lacs. It was submitted that in the case of the assessee, the tax effect was below the monetary limit prescribed by the above mentioned Circular and the case did not fall in any of the exceptions laid down by the CBDT vide Circular No.05/2024 dated 15.03.2024. The ld. AO had recommended the withdrawal of the appeal and accordingly it was prayed that the Department may kindly be permitted to withdraw the appeal.

4. We have duly considered the matter. In view of the fact that the Department has sought permission to withdraw the appeal in the light of CBDT Circular No. 09/2024 dated 17.09.2024 and the tax effect is below the prescribed limit, the appeal is permitted to be withdrawn and is dismissed as such.

5. In the result, the appeal of the Department is dismissed.

Order pronounced in the Open Court on 19/09/2025.

Sd/-
[KUL BHARAT]
VICE PRESIDENT

DATED: 19/09/2025

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Copy forwarded to:

1. Appellant –
2. Respondent –
3. CIT DR, ITAT,
4. CIT,
5. The CIT(A)

Sd/-
[NIKHIL CHOUDHARY]
ACCOUNTANT MEMBER

By order
Sr. P.S.