

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'D' अहमदाबाद ।

**IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, AHMEDABAD**

**BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER
AND
SHRI MANISH BORAD, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA.No.391/Ahd/2011
निर्धारण वर्ष/Block Asstt. Year: 2001-2002

ITO, Ward-5(1) Ahmedabad.	Vs	M/s.Naval Overseas P.Ltd. 3901/A, GIDC, Phase-IV Vatva, Ahmedabad. PAN : AABCN 1085 A
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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Revenue by :	Smt. Sonia Kumar, Sr.DR
Assessee by :	None

सुनवाई की तारीख/Date of Hearing : 05/01/2016
घोषणा की तारीख /Date of Pronouncement: 05/01/2016

आदेश/O R D E R

PER RAJPAL YADAV, JUDICIAL MEMBER:

The Revenue is in appeal before us against the order of Id.Commissioner Income-Tax (Appeals)-XI, Ahmedabad dated 03.12.2010 passed for the Asstt.Year 2001-02.

2. The grievance of the Revenue is that the Id.CIT(A) has erred in deleting penalty of Rs.5,04,120/- imposed by the AO under section 271(1)(c) of the Act.

3. This appeal was presented on 14.02.2011. On 10.12.2015 the CBDT has issued Instructions bearing No. 21/2015 prohibiting its subordinate authorities from filing of the appeal to the Tribunal against the order of the CIT(A) where the tax effect by virtue of the relief given by the CIT(A) is less than Rs.10 lakhs. The instructions have been made applicable with retrospective effect, meaning thereby, these instructions are applicable on pending appeals also. In the present case, the assessed income of the assessee is of Rs.26,00,725/- which was confirmed by the CIT(A) and the Tribunal. The Id.AO imposed penalty of Rs.5,04,120/- under section 271(1)(c) of the Act. The tax effect on deletion of penalty of Rs.5,04,120/- would be less than Rs.10 lakhs. The present appeal deserves to be dismissed being treated to be filed in violation of CBDT Instructions. The case does not fall within the ambit of exceptions provided in the instructions. It is further observed that since, while hearing the appeal, such factors could not be cross-verified, therefore, in case, on re-verification at the end of the AO, it came to the notice that the tax effect is more or it falls within the ambit of exceptions provided in the Instruction, then the Department will be at liberty to approach the Tribunal for recall of this order. Such application should be filed within four years of this order. In view of the above, the appeal of the Revenue is dismissed.

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

Order pronounced in the Court on 5th January, 2016 at Ahmedabad.

**Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER**

**Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER**

Ahmedabad; Dated 05/01/2016