IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.

INCOME TAX APPEAL NO.01 OF 2023

Principal Commissioner of Income Tax, (Central), Room No.116, Aaykar Bhavan, Civil Lines, Nagpur
vs.
M/s Gupta Domestic Fuels (Nagpur) Ltd. Gupta Bhavan, Temple Bazar Road, Sitabuldi, Nagpur

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Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

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Shri Bhushan Mohata, Advocate for appellant.

CORAM : ANIL L. PANSARE AND RAJ D. WAKODE, JJ.
DATED : 28th November, 2025

The appeal has been filed under Section 260(A) of the Income Tax Act (for short, the Act). On 10/10/2025, following order was passed :

" 1. Heard for some time.
2. The substantial question of law as formulated in petition does not indicate any question of law, much less substantial question of law. Learned counsel for the appellant seeks time to reformulate the substantial questions of law. Granted.
3. Necessary amendment shall be made by 17/10/2025.
4. List the appeal thereafter."

2. Accordingly, the appellant has amended the appeal and following substantial question of law is proposed :

" *A. Whether the ITAT was justified to overturn the order of Pr.CIT u/s 263 when, assessee had admitted that all transactions were paper transaction and whether the ITAT had perversely appreciated the fact that interest on unsecured loan, brokerage charges and processing charges could not be allowed on paper transaction and hence, the order of AO is erroneous in so far as it is prejudicial to the interest of revenue. ?"*

3. As could be seen, the appellant has come up with a case that Income Tax Appellate Tribunal (ITAT) committed perversity by overturning the order of Pr. CIT despite the fact that assessee has admitted that all transactions were paper transactions.

4. Accordingly, we have heard Shri Bhushan Mohata, learned counsel for appellant. We have gone through ITAT order and found that during the course of assessment proceedings, the Assessing Officer (AO) observed that assessee was engaged in coal trading business wherein all transactions were non-delivery based i.e. no physical delivery of trading commodity was involved. It was noticed by the AO that the assessee had categorically admitted that trading transactions in its books of account and those of its sister concern were non-delivery based. Considering the nature of asseesee's business, the AO was of the view that the assessee's claim for deduction of expenses should be restricted to only those expenses which were genuinely incurred. Accordingly, the AO called upon the assessee to substantiate the genuineness of the expenses and put forth an explanation as to why allowability of its claim for deduction not restricted to the expenses which were genuinely incurred to carry out paper transactions. The assessee accordingly filed reply. The AO then disallowed certain expenses and vide order passed under Section 143(3) of the Act assessed total loss at Rs.6,15,33,580/-.

5. On such determination of assessment proceedings, the Pr. CIT under Section 263 of the Act called for the assessment records of the assessee. The Pr.CIT observed that since the

assessee had itself in the course of search proceedings admitted that it was only carrying out paper transactions and there was no actual business, therefore, the AO had erroneously disallowed only certain expenses viz. manufacturing expenses, consultancy charges, travelling expenses, professional fees, selling expenses etc. The Pr.CIT to a view that AO failed to consider certain expenses, called upon the assessee to explain why the order of AO should not be revised under Section 263 of the Act.

The assessee filed reply. The Pr. CIT was of the view that the Assessment order passed by the AO was prejudicial to the revenue and therefore remanded matter back to consider afresh.

6. The order of Pr. CIT was assailed by the assessee before the Income Tax Appellate Tribunal, Nagpur (ITAT). The ITAT after going through the record found that assessee had never claimed that it had not carried out any actual business and was only involved in paper transactions and accommodation entries. The ITAT further found that the assessee claimed that it was involved in the business of coal trading transactions which were non-delivery based i.e. no physical delivery was involved. The ITAT noted that this fact was infact assessed by AO as well. The ITAT further found that assessee took note of the fact that the aforesaid arrangement of carrying out paper transactions was backed with a purpose of raising L/C facility.

Accordingly ITAT found fault in the order of Pr. CIT wherein it was inferred that assessee-Company was not carrying out any actual business and was only involved in paper transactions. The ITAT took a view that reference to paper transactions of the assessee by the AO was in context of the fact that the assesse was carrying out coal trading transactions which were non-delivery based. Accordingly, and after considering other material, the appeal filed by assessee came to be allowed.

7. Thus, it is evident that there is no admission by assessee that all transactions were paper transactions. In the circumstances, the substantial question of law as put forth would not arise for consideration.

The appeal is accordingly dismissed.

(Raj D. Wakode, J.) **(Anil L. Pansare, J.)**

Asmita