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

Income Tax Appeal No. 9 of 2024

[The Pr. Commissioner of Income Tax-1, Nagpur **vs.** M/s. Gupta Metallics & Power Ltd., Civil Lines, Nagpur]

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

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Mr. Anand Parchure, Advocate for the appellant
Mr. K. P. Dewani, Advocate for the respondent

CORAM: ANIL L. PANSARE AND RAJ D. WAKODE, JJ.

DATE : 12-12-2025.

On previous date, following order was passed.

"Heard.

02. The tax effect in the present appeal is below Rs.2.00 crores. The appellant's argument is that although the tax effect is below Rs.2.00 crores, the case falls under the exception as prescribed by the Ministry of Finance, Department of Revenue through Circular No.5/2024. According to the appellant, the case under question will fall in the category of organized tax evasion.

03. In this context, the learned Counsel for the respondent has invited our attention to Circular No.23/2019, dated 06/09/2019, issued by the Central Board of Direct Taxes (Board) under Section 268A of the Income Tax Act, 1961, stating that appeals in such cases may be filed on merits, where the Board by way of special order directs filing of appeal on merits in cases involved in organized tax evasion activity. In the present case, no such special order has been placed on record.

*04. The learned Counsel has then referred to the judgment of the Division Bench of this Court in **Commissioner of Income Tax vs. Surendra Shantilal Peety – [2022] 138 taxmann.com.75 (Bombay)**, wherein the Court held in paragraphs 40 and 41 as under :*

> *"40. I our view, in the appeals preferred after the date of the Circular dated 23/2019, dated 6th September, 2019 involved in organized tax evasion activity can be filed on merits before the ITAT/High Courts/Supreme Court including the cross objections only if the CBDT passes a special order in those SLPs/appeals/cross objections before the Supreme Court/High Courts/Tribunals if the tax limit is less than the specified monetary reliefs prescribed in the Circulars issued by the CBDT under section 268A of the IT Act, 1961.*
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> *41. These circulars under section 268A of the IT Act, 1961 by the CBDT are issued with an object to not to burden the Courts and Tribunals in respect of the matters where the tax effect is less than the limit prescribed, subject to the exceptions carved out in these Circulars."*

05. Thus the Circular of 2019 is issued so that the Court and the Tribunal are not burdened with matters where the tax effect is below the prescribed limit, despite such status, the appellant filed the present appeal.

06. At this stage, the learned Counsel for the appellant seeks time to take instructions.

07. Time, as sought, is granted with a clear understanding that if it is found that this appeal ought not to have been filed, we may consider imposing costs for unnecessarily wasting the time of the Court.

08. Stand over to 12th December, 2025."

Mr. Anand Parchure, learned counsel for the appellant submits that admittedly, the tax effect is below permissible limit. The counsel, however, seeks further time to verify whether prosecution is pending against the respondent. Thus, the Department now intends to find out whether appeal is maintainable on account of another exception.

This tendency is unacceptable. We may remind the Department that the CBDT has issued a circular to withdraw the appeals where tax effect is below 2 Crores only with the intention to not burden the Tribunals and Courts with the litigations. The Revenue, however, is consuming time only to decide whether the appeal could be continued on the ground of exception envisaged in the said circular.

The casual conduct of the Revenue is noted in many cases. Today itself, we have passed an order in Income Tax Appeal No. 1/2024 and immediately, in next matter i.e this matter, the above status is surfaced. We expect Revenue to be more careful. At the same time, we will now consider imposing costs, if it is found that appeal ought not to have been continued.

Stand over to 19-12-2025.

(JUDGE) **(JUDGE.)**

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