

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR – VIRTUAL COURT

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI S. S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.201/NAG/2022
निर्धारण वर्ष / Assessment Year : 2011-12

ACIT, Central Circle-2(1), Nagpur.	Vs.	M/s. Gupta Domestic Fuels (Nagpur) Ltd., Gupta House, Temple Bazar Road, Civil Lines, Nagpur- 440001. PAN : AAACG5230D
Appellant		Respondent

Revenue by : Shri Kailash G. Kanojiya
Assessee by : Shri Rajesh V. Loya

Date of hearing : 18.12.2023
Date of pronouncement : 19.12.2023

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the Revenue directed against the order of Id. Commissioner of Income Tax (Appeals)- 3, Nagpur [‘the CIT(A)’] dated 26.05.2022 for the assessment year 2011-12.

2. Briefly, the facts of the case are that the respondent-assessee is a company incorporated under the provisions of the Companies Act, 1956. It is engaged in the business of processing of coal products,

trading of coal and steel, HR sheets etc. The Return of Income for the assessment year 2011-12 was filed on 30.03.2012 declaring a loss of Rs.7,74,51,051/-. Against the said return of income, the assessment was completed by the Asst. Commissioner of Income Tax, Central Circle-2(1), Nagpur ('the Assessing Officer') vide order dated 03.03.2014 passed u/s 143(3) of the Income Tax Act, 1961 ('the Act') at total loss of Rs.6,15,33,580/-.

Subsequently, on examination of the assessment record, the ld. PCIT was of the opinion that during the course of search proceedings when the assessee had itself admitted that it was only carried out the paper transactions without any actual business, the Assessing Officer should have disallowed the entire expenditure instead of part of the expenditure and, therefore, the ld. PCIT proposed to revised the assessment order to disallow the balance expenditure of Rs.50,46,835/-. Finally, the ld. PCIT had passed the order u/s 263 of the Act dated 09.03.2016 setting aside the assessment order. Against the said order of the ld. PCIT passed u/s 263 of the Act, an appeal was preferred by the assessee before this Tribunal. The Tribunal in appeal bearing ITA No.308/NAG/2016 for A.Y. 2011-12 vide order dated 05.04.2022 had quashed the

order passed by the ld. PCIT u/s 263 of the Act. However, before quashing the 263 order, a consequential assessment order giving effect to 263 order was passed by the Assessing Officer on 19.07.2016 after making the disallowance of expenditure of Rs.50,46,835/-.

3. Being aggrieved, an appeal was filed before the ld. CIT(A), who vide impugned order allowed the appeal of the assessee by quashing the consequential assessment order passed u/s 143(3) r.w.s. 263 of the Act taking into consideration the fact that the Tribunal had quashed 263 order.

4. Being aggrieved, the Revenue is in appeal before us in the present appeal.

5. Admittedly, the impugned order before the CIT(A) is consequential assessment order passed by the Assessing Officer giving effect to the 263 order. However, when the 263 order itself had been quashed by the Tribunal, the question of passing consequential assessment order to the effect of 263 order does not arise and, therefore, the ld. CIT(A) had rightly quashed the consequential assessment order passed by the Assessing Officer u/s 143(3) r.w.s. 263 of the Act. In the circumstances, we do not find

any reason to interfere with the impugned order of the ld. CIT(A).
Therefore, the grounds of appeal raised by the Revenue stand dismissed.

6. In the result, the appeal filed by the Revenue stands dismissed.

Order pronounced on this 19th day of December, 2023.

Sd/-
(S. S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 19th December, 2023.

Sujeet

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-3, Nagpur.
4. The CIT (Central), Nagpur.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, नागपुर /
DR, ITAT, Nagpur.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.