

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
(THROUGH VIDEO CONFERENCING)**

ITA No.3995/Del/2017 & 3996/Del/2017
Assessment Year: 2004-05

Raj Kamal Associates Ltd. 23, Paschimi Marg, Vasant Vihar, New Delhi-1100057 PAN No.AAACR1521J	Vs	ITO Ward – 15 (2) New Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Sanjay Sachdeva, CA
Respondent by	Sh. Vipul Kashyap, Sr. DR

Date of hearing:	27/09/2021
Date of Pronouncement:	30/09/2021

ORDER

PER N. K. BILLAIYA, AM:

ITA No.3995/Del/2017

1. Vide ground No.1 the assessee has challenged the assumption of jurisdiction by the AO for making assessment u/s. 147 r.w.s 143 (3) of the Act.

2. Representatives of both the sides were heard at length. Case record carefully perused. Briefly stated that the facts of the case are that the assessee filed its return of income on 30.10.2004 declaring total income of Rs.5,550/-. The return was processed u/s.143 (1) of the Act.

3. On the basis of the information received from the office of DIT (Inv.) the AO came to know that the assessee is a beneficiary of accommodation entries provided by one Tarun Goyal, Chartered Accountant. The following reasons were recorded for initiating proceedings u/s. 147 of the Act :-

Form for recording the reasons for initiating proceedings u/s 147 and for obtaining the approval of the CIT/CBDT

1. Name and address of the assessee : M/s Raj Kamal Associates. Ltd.
A-1/2, Vasant Vihar Delhi-110057.
2. PAN : AAACR1521J
3. Status : Co.
4. Ward/Circle : WARD 15(2)
5. Asst. Year in respect of which it is proposed to issue notice u/s 148 : 2004-05
6. The quantum of income which has escaped assessment : Rs. 5,00,000/-
7. Whether the assessment is proposed to be made for the first time : Yes
8. If answer to item 7 is negative state
 - (a) Income originally assessed : NA
 - (b) Whether it is a case of under assessment, at lower rate, assessment which has been made the subject of excessive relief or allowing excess loss/depreciation : NA
9. Whether the provision of Sec. 150(1) are applicable. If the reply is in affirmative the relevant facts may be stated against Item No. 11 and 8 may also be brought out that the provisions of Sec. 150(2) would not stand in the way of initiating proceedings u/s 147. : No
10. Reasons for the belief that income has escaped assessment:

The return of income was filed on 30.10.2004 and processed u/s 143(1) on 30.10.2004. DIT (Inv) during the course of investigation in the case of Shri Tarun Goyal Chartered Accountant during the course of search on 15.09.2008 established that Shri Tarun Goyal has floated for the purpose of providing accommodation entries. All the companies floated by Sh. Tarun Goyal are not carrying out any genuine activity and are merely being used to provide accommodation entries. Hence all the companies of Sh. Tarun Goyal are 'bogus'. Further it was seen that Sh. Tarun Goyal created a number of private limited companies and firms for providing accommodation entries. The directors of these companies were his employees who worked in his office as peons, receptionists etc. All the documents were got signed from these employees. A number of Bank Accounts in various banks were opened in the names of these companies and his employees, in which huge cash deposits were made. Later cheques were issued to various beneficiaries, disguising the whole transaction as genuine. It was established by the Investigation wing after in-depth verification that these network of companies run by Sh. Tarun Goyal is only doing the business of providing accommodation entries to various beneficiaries and are not doing any real business, hence these companies are 'BOGUS'.

It is noticed from the list of entries that the assessee M/s Raj Kamal Associates. Ltd., has taken the following accommodation entries from the following person(s) as per details hereunder:-

Amount	Name of entry provider
500000	D.U. Securities Pvt. Ltd

In view of the report received from the DIT (Inv.) New Delhi, and in view of the facts narrated above it is clear that the assessee has not disclosed fully and truly all material facts necessary for its assessment for that assessment year. I have therefore, reason to believe that the sum of Rs. 5,00,000/- chargeable to tax has escaped assessment. Thus, the same is to be brought to tax under section 147/148 of the I.T. Act 1961.

Notice u/s 148 may be issued, if approved.

Dated: 18/02/2011

(K. Vidya)
Income Tax Officer, Ward 15(2)
New Delhi

New Delhi

Addl. CIT Range 15, New Delhi

In view of the reasons mentioned above, I am satisfied that income has escaped assessment for AY 2004-05. Therefore action u/s 148 is required to be taken in the case of value of Rs. 5,00,000/- in the hands of the assessee.

(Signature)
Sd/-
Sd/-

4. A perusal of the aforestated reasons recorded by the AO for reopening the assessment clearly show that the assessment has been reopened on the basis of the information that the assessee has taken accommodation entries from the M/s. D.U. Securities Private Limited amounting to Rs. 5 lacs whereas facts as emanating from the Assessment Order show that the AO has proceeded with the allegation of the accommodation entries from the M/s. Adonis Securities Private Limited. The Assessment Order is completely silent and there is not even a whisper about the accommodation entries alleged to have been taken from the M/s. D.U. Securities Private Limited which was the basis for reopening the assessment.

5. In my considered opinion the entire reopening has been done on erroneous facts thereby making reassessment order dated 14.12.2011 framed u/s. 147 r.w.s. 143 (3) of the Act bad in law.

6. On the given facts I have no hesitation in quashing the assessment order framed on erroneous information. Ground No.1 is allowed.

7. Since I have quashed the assessment order I do not find it necessary to dwell into the merits of the case.

8. ITA No. 3995/Del/2017 is allowed.

ITA No. 3996/Del/2017 (A.Y.2004-05)

9. Relates to the levy of penalty u/s. 271 (1) (c) of the Act on the additions made in the assessment and contested by the assessee in ITA No.3995/Del/2017 (supra).

10. Since I have quashed the assessment order in ITA No.3995/Del/2017 I find that the penalty so levied u/s. 271 (1) (c) of the Act does not have any leg to stand. I accordingly direct the AO to delete the penalty levied u/s. 271 (1) (c) of the Act.

11. ITA No. 3996/Del/2017 is allowed.

Order pronounced in the open court on 30.09.2021.

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

NEHA

Date:-30 .09.2021

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	27.09.2021
Date on which the typed draft is placed before the dictating Member	30.09.2021
Date on which the typed draft is placed before the Other member	30.09.2021
Date on which the approved draft comes to the Sr.PS/PS	30.09.2021
Date on which the fair order is placed before the Dictating Member for Pronouncement	30.09.2021
Date on which the fair order comes back to the Sr. PS/ PS	30.09.2021
Date on which the final order is uploaded on the website of ITAT	30.09.2021
Date on which the file goes to the Bench Clerk	30.09.2021
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	