

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "H" DELHI**

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT
AND
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.149 & 148/DEL/2021
Assessment Year 2009-10 & 2010-11

H.S. Impex Pvt. Ltd. 5298, Hardhian Singh Road Dev Nagar, Karol Bagh New Delhi	Vs.	DCIT Circle-11(2) New Delhi
TAN/PAN: AABCH8227N		
(Appellant)		(Respondent)

Appellant by:	Shri Pranav Yadav, Adv.		
Respondent by:	Shri Vivek Kumar Upadhyay, Sr.DR		
Date of hearing:	04	01	2024
Date of pronouncement:	09	02	2024

ORDER

PER PRADIP KUMAR KEDIA-A.M. :

Both the captioned appeals have been filed by the assessee against the orders of the Commissioner of Income Tax (Appeals)-XXXV, New Delhi ('CIT(A)' in short) both dated 30.07.2018 arising from the assessment orders dated 26.12.2016 and 25.12.2016 passed by the Assessing Officer (AO) under Section 147 r.w. Section 143(3) of the Income Tax Act, 1961 (the Act) concerning AYs 2009-10 and 2010-11, respectively.

2. Briefly stated, the assessee filed return of income for Assessment Year 2008-09 in question, declaring 'Nil' income which was processed under Section 143(1) of the Act. Thereafter, notice dated 30.03.2016 was issued under Section 148 of the Act seeking to reopen the concluded assessment. The re-assessment order was consequently finalized after making additions / disallowances of Rs.1,13,74,623/- owing to

unexplained cash credits by invoking Section 68 of the Act. The re-assessment order was thus framed determining re-assessed income at Rs.1,13,74,623/-.

3. The assessee challenged the re-assessment proceedings before the CIT(A) on both counts, namely, validity of jurisdiction assumed under Section 148 of the Act as well as merits of additions made in the re-assessment proceedings. The CIT(A) however upheld the action of the AO on both counts.

4. Aggrieved by the aforesaid order of the CIT(A), the assessee has filed appeal before the Tribunal.

5. The grounds of appeal raised by the assessee in ITA No.149/Del/2021 (Assessment Year 2009-10) are reproduced as under:

“1. On the facts and circumstances of the case and in law, the notice under section 148 of the Income Tax Act, 1961 issued in the case is bad-in-law, void and without jurisdiction and, therefore, the said notice along with the assessment order passed by the assessing officer on the foundation of such notice are liable to be quashed and CIT (A) erred in not holding so.

2. On the facts and circumstances of the case and in law, the notice u/s 148 issued in this case is contrary to law including the specific provision of section 147 to 151 of the Act and CIT (A) erred in not holding so.

3. On the facts and circumstances of the case and in law, the CIT (A) erred in confirming the addition of Rs. 1,13,74,620/- made by the assessing officer on the account of alleged bogus sales.

4. On the facts and circumstances of the case and in law, the addition of Rs. 1,13,74,620/- made by the assessing officer and confirmed by CIT(A) is beyond the scope of provisions of section 148 of the Act and the same is liable to be deleted.”

6. Since, the assessee has raised the legal question of correctness of usurpation of jurisdiction by the AO to reopen the concluded assessment, it would be pertinent to address the aforesaid question at the outset.

7. With reference to the jurisdiction issue, the Id. counsel for the assessee at the outset submitted that the AO has wrongly assumed the jurisdiction for making re-assessment by issuing notice under Section 148 of the Act without authority of law. It was submitted that on the face

of it, the vital ingredients of Section 147/148 are not fulfilled in the instant case to enable the AO to exercise jurisdiction and to proceed with the re-assessment proceedings. It was contended that reasons have been recorded on wholly incorrect factual premise. The AO has recorded reasons that income to the extent of Rs.1,26,88,804/- has escaped assessment. The AO has attributed aforesaid escapement on account of alleged accommodation entries to following parties;

- (i) R.K. Trading Company – Rs.51,63,804/-
- (ii) (ii) Netwest Trade Link Pvt. Ltd. – Rs.75,25,000/-.

7.1 In the reasons, the Assessing Officer has mentioned that the assessee-company has claimed bogus billing amounting to Rs.1,26,88,000/- [Rs.51,63,804/- (plus) Rs.75,25,000/-]. This is factually incorrect. As a matter of fact, no bills were issued by aforesaid two entities to the assessee-company during the year, leave alone the question on any bogus billing. The ld. counsel submitted that it was duly explained to the AO that the assessee-company did not have any transaction with R.K. Trading Company during the year at all. In respect of other party, namely, Netwest Tradelink Pvt. Ltd., there was no transaction of Rs.75,25,000/- as mentioned in the reasons. It was duly explained to the AO that during the year, the company has sold goods amounting to Rs.113,74,623/- to Netwest Tradelink Pvt. Ltd. It was also explained to the AO that all the transactions were High Sea Sales. In evidence, the assessee submitted the documents before the Assessing Officer viz; copy of sale invoice, copy of purchase invoice, bill of entries, High Sea Sale Agreement, copy of account, bank statement etc. The factual position in this regard is not in dispute.

7.2 In this backdrop, the reasons recorded by the AO are without any factual basis for alleged escapement. The re-assessment proceedings initiated without foundation is thus not sustainable in law.

7.3 The ld. counsel next submitted that the notice under Section 148 has to stand or fall based on reasons recorded under Section 148(2) of the

Act. The AO cannot thereafter travel beyond the reasons so recorded and keep improving the reasons for alleged escapement as held in *Xerox Modicorp Ltd. vs. DCIT (2013) 29 taxmann.com 417 (Del)*. The reasons must be based on some objective material which is relevant and reliable in character. The belief thereon although is subjective in nature but must have rational connection or live link with the material/information in possession of the AO. In the instant case, the AO has not brought on record any documentary evidence to support allegation of accommodation entry. There is no statement of any party either to support any adverse inference. The AO has simply proceeded on the basis of some 'Suspicious Transaction Report (STR)' information received by DDIT (Inv.-I), Faridabad. As per information from FIU in the case of Netwest Trade Link Pvt. Ltd. and R.K. Trading Company Faridabad, which as stated is wholly without any foundation.

7.4 On merits, the ld. counsel pointed out that the AO committed error in making additions of Rs.1,13,74,621/- on mis-appreciation of facts. The aforesaid amount is already stood credited in the P&L account, i.e., Rs.1,11,21,659/- under the head 'Sales' and Rs.2,52,961/- under the head 'Commission' income and therefore, Section 68 cannot be applied in such facts. The amount of Rs.1,13,74,623/- represents high sea sales made by the assessee. The fact of the matter is that the assessee had imported goods and correspondingly made sales and duly recorded the same. The addition under Section 68 in such situation has resulted in double addition; (i) as per the entries recorded in the books and offered as income and; (ii) under the deeming fiction of Section 68 as done by the AO. The ld. counsel referred to judgment rendered in the case of *CIT vs. Kailash Jewellery House 2010 (4) TMI 1070 (Del)* in this regard to submit that additions under Section 68 could not be made where sales have been duly recorded.

7.5 The ld. counsel next submitted that as demonstrated, the transaction referred to in the reasons recorded is neither backed by any documentary evidences nor any additions have been carried out on the

alleged accommodation entry transaction recorded for the purposes of reopening the assessment. This being so, the additions made of Rs.1,13,74,620/- on an altogether non-descript and different set of transaction is wholly impermissible in law. The ld. counsel pointed out that it is settled position of law that unless any of the escapement alleged in the reasons recorded is subject matter of any additions/disallowances, it is impermissible for the AO to indulge in making additions on other items unconnected to the main additions proposed in the reasons recorded. A reference was made to the judgment rendered in the case of *CIT vs. Jet Airways (India) Ltd., (2011) 331 ITR 236 (Bom)* and *Ranbaxy Laboratories vs. CIT (2011) 336 ITR 136 (Del)*.

8. Per contra, the ld. DR for the Revenue submitted that the AO has rightly assumed jurisdiction to make re-assessment by issuing notice under Section 148 of the Act on the basis of tangible material / information received from Deputy Director of Income Tax (Inv.-I), Faridabad based on outcome of inquiries in the matter of assessee, based on STR report in the case of Netwest Tradelink Pvt. Ltd. and R.K. Trading Company Faridabad. It was submitted that AO acted upon such *prima facie* information received from other wing of the Department and hence such action was within the authority of law. It was thus submitted that as long as the information received are relevant as in the present case, such information need not be pinpoint accurate or complete in all respect at the stage of issuance of notice. It was thus submitted that CIT(A) has rightly upheld the action of the assessee on all counts. The ld. DR essentially relied upon the findings of the CIT(A) and the process of reasoning adopted by him while approving the assumption of jurisdiction under Section 147 of the Act as well as upholding the addition on merits.

9. The legal issue of validity of assumption of jurisdiction under Section 147/148 on the contours of factual matrix is dealt with determination.

9.1 The reasons recorded under Section 148(2) towards escapement of

income giving cause for issuance of notice under Section 148(1) is the foundation for determination of jurisdiction issue. Accordingly, the reasons so recorded by the AO are reproduced hereunder:

“The assessee has filed its return of income on 30.09.2009 declaring income of Rs.13,75,120 which was processed u/s. 143(1) of the I.T. Act, 1961. The information has been received from DDIT, (Inv.)-I, Faridabad that as per information from FIU in the STR No. 1000014477 & 1000030164 in the case of M/s Globe Trade Corporation & M/s R. K. Trading Company, Faridabad, bank accounts of these firms were credited by huge cash deposition, RTGS de clearing and debits are mostly by cash withdrawal.

During the investigation, it has come to notice that Sh. Tek Chand Sharma, PAN -ASQPS3593Q is the proprietor of M/s. Global Trade Corporation, Netwest Trade Link and Sh. Ram Kishan, PAN-BFGPK9790B is the proprietor of M/s SSB Sales, R. K. Trading Co., R. S. Traders, J. S, Enterprises and Dee Kay Trade Centre. Sh. Tek Chand Sharma and Sh. Ram Krishan were issued summons u/s. 131 which were received back unserved. It is further noted that both the above persons don't file returns of income.

The bank statements of their proprietor concerns was examined and it was found that there large number of deposits and withdrawal. On analysis of pattern of above bank transactions as well as non-existence of proprietorship firms of Sh. Ram Kishan and Sh. Tek Chand Sharma, it is inferred that:

- 1. These bank accounts were used for layering of funds and not for actual business purpose.*
- 2. All the above mentioned entities of Sh. Tek Chand Sharma and Sh. Ram Kishan do not exist physically, hence not doing any business and are existing only on paper.*
- 3. As per AST records, Sh. Tek Chand Sharma and Sh. Ram Kishan do not file their returns of income, hence not assessed to tax.*
- 4. Since, all above mentioned entities are proprietorship concerns having high value transactions in many years, filing of returns of income are mandatory for the proprietors of these firms as per Income Tax Act, 1961. Therefore, it clearly establishes that they provided only accommodation entries to their beneficiaries.*
- 5. All the parties which have either received of paid funds from the accounts of entities controlled and managed by Sh. Ram Kishan and Sh. Tek Chand Sharma have been benefited. Therefore information of these beneficiaries needs to be shared with their jurisdictional AOs.*

Thus the transaction patter of bank account statements of all firms of Sh. Tek Chand Sharma & Sh. Ram Kishan, it has been considered that they were involved in the business of bogus billing during the financial year 2008-09 to 2011-12 and the assessee company namely M/s H. S. Impex Pvt. Ltd. (PAN-AABCH8227N) has been found to be one of the beneficiary of the bogus bills provided by M/s R. K. Trading Company & Net West Trade Links during the year under consideration.

Sr. No.	Name of the Assessee/Bank A/C. No.	Debit (Approx.)	Credit (approx.)	Name of the beneficiary
1.	R.K. Trading Company A/C. No. 286209003994 With Kotak Mahindra Bank Proprietor: Ram Kishan	F.Y. 2008-09		
			5163804	H.S. Impex Pvt. Ltd.
2.	New West Trade links A/c. No. 01792000000940 With Kotak Mahindra Bank Ltd. Proprietor Tek Chand Sharma	F.Y. 2008-09		
		7525000		H.S. Impex Pvt. Ltd.
TOTAL		7525000	5163804	

During the AY 2009-10, the assessee has made the transactions with M/s R. K. Trading Company & Net West Trade Links for a consideration of Rs. 51,63,804/- & 75,25,000/- approx. respectively as mentioned above which is for accommodation entry.

I have also perused various materials and information along with bank statement available on record as received from the Investigation wing and on that basis it is observed that the assessee company has claimed the bogus billing amounting to Rs. 1,26,88,804 (51,63,804+ 75,25,000) approx. in the name of M/s R. K. Trading Company Ltd. & Net West Trade Links to reduce the taxable income for the year.

On perusal of the documents on record as well as the information received from the investigation wing, I am satisfied and have reason to believe that the income of the assessee company amounting to Rs. 1,26,88,804/- has escaped assessment. The escapement of income has been clearly on account of failure on the part of the assessee company to truly and fully disclosure of all material facts necessary for assessment. Thus, it is a fit case for initiation of proceedings u/s. 147 of the Income Tax Act, 1961, if approved.

Assistant Commissioner of Income Tax
Circle-11(2), New Delhi.”

9.2 On a bare reading of reasons recorded and the information received by the AO as referred in the reasons recorded, it is ostensible that the information so provided by the DDIT (Inv.-I) Faridabad goes to show that certain transactions through banking channel has been carried out by the assessee with R.K. Trading Company and Netwest Trade Link. Noticeably, the information supplied by the DDIT is merely advisory in nature whereby the Assessing Officer was advised to check the copy of the account of the assessee with both these firms and examine them from an angle as to whether entries are in the nature of accommodation entries with such parties and carry necessary action as a consequence of any

adverse observation. In essence, the AO was advised to make proper inquiries into such hugely suspicious entries. However, the AO appears to have straightaway took recourse to reopen the assessment without any intermittent inquiry to ascertain the propriety of comments emerging from such information to make *prima facie* opinion of escapement of chargeable income on such purportedly suspicious transaction. This is further reinforced by the fact that no transaction claimed to have been carried out by the assessee from R.K. Trading Company at all as appearing in the reasons recorded. No addition has been made by the AO on this score either. The transaction was carried out with Netwest Trade Link but such transaction is wholly different. The amount of Rs. 1,13,74,623/- is totally dissimilar to suspicious transaction of Rs.75,25,000/- forming the basis for holding reason to believe. Thus, both the transactions forming part of the reasons have not been carried out by the assessee at all. The very basis for reopening the assessment is thus vitiated at the threshold. The AO has made an addition of Rs.113,74,623/- qua high sea sale transactions executed with Netwest Tradelink Pvt. Ltd. supra) which has no similarity with the transaction alleging escapement in the reasons recorded. The Assessing Officer has not bothered to link these transactions with the existing transaction in the course of re-assessment proceedings. The re-assessment made is thus totally divorced from the basis for which the case was reopened. This course is not permissible in law. In the absence of any addition/disallowance made qua the reasons recorded, the Assessing Officer is not entitled to make additions with respect to other items surfaced in the course of the re-assessment proceedings as held in *Jet Airways (supra)* and *Ranbaxy Laboratories (supra)* as pointed out on behalf of the assessee. The issue is squarely covered in favour of the assessee on similar facts in the case of *DCIT vs. Shubham Chemicals & Solvent Ltd. in ITA No.5387/Del/2015, order dated 29.03.2022.*

10. As per the delineation made above, the AO has drawn adverse inference which is not intelligible in the absence of any basic inquiry on

the information in the peculiar facts of the present case. The salutary requirement of holding 'reason to believe' is clearly absent. Thus, the jurisdiction assumed under Section 148 r.w. Section 147 is clearly unsustainable in law.

11. This apart, as pointed out on behalf of the assessee, the transactions with Netwest Trade Link Pvt. Ltd. to the tune of Rs.1.13 crore were offered as turnover / sales whereas the additions has been made under Section 68 of the Act without reducing the corresponding sales. Such an act of the AO tantamount to double additions (i) under the head 'turnover' and (ii) under Section 68 of the Act. Such course of action is manifestly unsustainable and cannot be countenanced in law even while testing the merits of additions. We thus find no rationale in the course adopted by the AO and by the CIT(A) on merits either. Hence, the order of the CIT(A) deserves to be set aside and the position taken by the assessee.

12. The appeal of the assessee is thus allowed both on the point of lack of jurisdiction under Section 147 of the Act as well as on merits.

13. In the result, the appeal of the assessee is allowed.

ITA No.148/Del/2021 (Assessment Year 2010-11)

14. The grounds of appeal raised by the assessee read as under:

"1. On the facts and circumstances of the case and in law, the notice under section 148 of the Income Tax Act, 1961 issued in the case is bad-in-law, void and without jurisdiction and, therefore, the said notice along with the assessment order passed by the assessing officer on the foundation of such notice are liable to be quashed and CIT (A) erred in not holding so.

2. On the facts and circumstances of the case and in law, the notice u/s. 148 issued in this case is contrary to law including the specific provision of section 147 to 151 of the Act and CIT(A) erred in not holding so.

3. On the facts and circumstances of the case and in law, the CIT (A) erred in confirming the addition of Rs 51,63,804 /- made by the assessing officer on the account of alleged bogus purchases.

4. On the facts and circumstances of the case and in law, the CIT (A) erred in confirming the addition of Rs. 1,25,26,687/- made by the assessing officer on the account of amount received against sales."

15. In the captioned appeal too, the assessee has raised legal question of correctness of usurpation of jurisdiction by the AO to reopen the concluded assessment as well as the merits of the additions.

16. The reasons recorded under Section 148(2) for AY 2010-11 while issuing notice under Section 148 dated 30.03.2016 read as under:

“The assessee has filed its return of income on 14.10.2010 declaring income of Rs. 14,51,910/- which was processed u/s. 143(1) of the I.T. Act, 1961. The information has been received from DDIT, (Inv.)-I, Faridabad that as per information from FIU in the STR No. 1000014477 & 1000030164 in the case of M/s Globe Trade Corporation & M/s R. K. Trading Company, Faridabad, bank accounts of these firms were credited by huge cash deposition, RTGS & clearing and debits are mostly by cash withdrawal.

During the investigation, it has come to notice that Sh. Tek Chand Sharma, PAN -ASQPS3593Q is the proprietor of M/s Global Trade Corporation, Netwest Trade Link and Sh. Ram Kishan, PAN-BFGPK9790B is the proprietor of M/s SSB Sales, R. K. Trading Co., R. S. Traders, J. S Enterprises and Dee Kay Trade Centre. Sh. Tek Chand Sharma and Sh. Ram Krishan were issued summons u/s 131 which were received back unserved. It is further noted that both the above persons don't file returns of income.

The bank statements of their proprietor concerns was examined and it was found that there large number of deposits and withdrawal. On analysis of pattern of above bank transactions as well as non-existence of proprietorship firms of Sh. Ram Kishan and Sh. Tek Chand Sharma, it is inferred that:

1. These bank accounts were used for layering of funds and not for actual business purpose.

2. All the above mentioned entities of Sh. Tek Chand Sharma and Sh. Ram Kishan do not exist physically, hence not doing any business and are existing only on paper.

3. As per AST records, Sh. Tek Chand Sharma and Sh. Ram Kishan do not file their returns of income, hence not assessed to tax.

4. Since, all above mentioned entities are proprietorship concerns having high value transactions in many years, filing of returns of income are mandatory for the proprietors of these firms as per Income Tax Act, 1961. Therefore, it clearly establishes that they provided only accommodation entries to their beneficiaries.

5. All the parties which have either received of paid funds from the accounts of entities controlled and managed by Sh. Ram Kishan and Sh. Tek Chand Sharma have been benefited. Therefore information of these beneficiaries needs to be shared with their jurisdictional AOs.

Thus the transaction patter of bank account statements of all firms of Sh. Tek Chand Sharma & Sh. Ram Kishan, it has been considered that

they were involved in the business of bogus billing during the financial year 2008-09 to 2011-12 and the assessee company namely M/s H. S. Impex Pvt. Ltd. (PAN-AABCH8227N) has been found to be one of the beneficiary of the bogus bills provided by M/s R. K. Trading Company & Global Trade Corporation during the year under consideration.

Sr. No.	Name of the Assessee/Bank A/C. No.	Debit (Approx.)	Credit (approx.)	Name of the beneficiary
1.	R.K. Trading Company A/C. No. 286209003994 Proprietor: Ram Kishan	F.Y. 2009-10		
			51,63,804	H.S. Impex Pvt. Ltd.
2.	Global Trade Corporation A/C. No.630305500180 with ICICI Bank Ltd. Proprietor Tek Chand Sharma	F.Y. 2009-10		
		1,01,26,687		H.S. Impex Pvt. Ltd.
3.	Global Trade Corporation A/C. No. 1025050000817 with ICICI Bank Ltd. Proprietor Tek Chand Sharma	F.Y. 2009-10		
		24,00,000		H.S. Impex Pvt. Ltd.
	TOTAL	1,25,26,687	5163804	

During the AY 2010-11 the assessee has made the transactions with M/s R. K. Trading Company & Global Trade Corporation for a consideration of Rs. 51,63,804/- & 1,25,26,687/- approx. respectively as mentioned above which is for accommodation entry.

I have also perused various materials and information along with bank statement available on record as received from the Investigation wing and on that basis it is observed that the assessee company has claimed the bogus billing amounting to Rs. 1,76,90,491 (51,63,804/- + 1,25,26,687/- approx. in the name of M/s R. K. Trading Company Ltd. & Global Trade Corporation to reduce the taxable income for the year.

On perusal of the documents on record as well as the information received from the investigation wing, I am satisfied and have reason to believe that the income of the assessee company amounting to Rs. 1,76,90,491/- has escaped assessment. The escapement of income has been clearly on account of failure on the part of the assessee company to truly and fully disclosure of all material facts necessary for assessment. Thus, it is a fit case for initiation of proceedings u/s.147 of the Income Tax Act, 1961, if approved.

*Assistant Commissioner of Income Tax
Circle-11(2), New Delhi”*

17. The reasons recorded are identical to that in AY 2009-10 in ITA No. 149/Del/2021 (supra) except the change in the name of the parties. The assumption of jurisdiction under Section 147 is bad in law in the wake of process of reasoning adopted for AY 2009-10 (supra). We are

also guided by the judgment of Hon'ble Delhi High Court in the case of *Pr.CIT vs. G&G Pharma India Ltd., 384 ITR 147 (Del)* wherein the Hon'ble Delhi High Court emphasized on the requirement of independent application of mind to the information obtained by the Assessing Officer. The information summarized in the reasons recorded do not reflect any independent application of mind *per se*. The AO has merely acted upon the information supplied without weighing the factual matrix on both the allegation namely bogus billing qua R.K. Trading Company (Proprietor Ram Kishan) of Rs.51,63,804/- as well as Global Trade Corporation (Proprietor Tek Chand Sharma) of Rs.1,01,26,687/- and Rs.24,00,000/- respectively. The purchases made from these parties are backed by purchase invoice, corresponding sale and payment through banking channel and also sold in the course of trade giving rise to chargeable income in the hands of assessee.

18. As regards purchases from R.K. Trading Company amounting to Rs.51,63,804/-, the assessee demonstrated before the AO that corresponding sales have been recorded in the books of account against such purchases and the assessee has factually earned an income of Rs.3,13,688/- on sale of goods which were purchased from R.K. Trading Company. Consequently, there is no escapement of income *per se*. Similarly, purchases made from Global Trade Corporation alleged to be in the nature of accommodation entries were shown to be duly accounted for and corresponding sales made to two parties namely Silver Tulip Impex Pvt. Ltd. and Tanish International. The consequent profits arising on sale of goods have been duly recorded in the books of account. A part of the payment against the sale of goods to these two parties were received from Global Trade Corporation alleged to be entry provider but however the assessee has not entered into any purchase transaction with such party alleged in the reasons recorded. The transactions are backed by purchase bill as well as the corresponding sale bill, the stock register and the bank statement. The assessee claims that in the similar circumstances, the additions on account of alleged accommodation

purchases on the ground that Department has collected some information towards accommodation entry has been negated in the case of *CIT vs. J.M.D. Computer & Communication (P) Ltd. (Del) 2009] 180 Taxman 485 (Delhi)*; *CIT vs. Bholanath Polyfab (P) Ltd., (2013) 355 ITR 290 (Guj.)*; *Nikunj Eximp Enterprises Pvt. Ltd. vs. CIT, (2012) 346 ITR 78 (Bom)* and plethora of other decisions.

19. In consonance with the view taken in ITA No.149/Del/2021 A.Y. 2009-10 (supra), we find force in the plea raised both on lack of jurisdiction as well as *bona fides* of transactions recorded in the books on merits. The order of the CIT(A) is thus set aside and the AO is directed to restore the position taken by the assessee.

20. In the result, the appeal of the assessee is allowed.

21. In the combined result, both the appeals of the assessee are allowed.

Order pronounced in the open Court on 09/02/2024

Sd/-

**[SAKTIJIT DET]
VICE PRESIDENT**

DATED: /02/2024

Prabhat

Sd/-

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**