

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "A", MUMBAI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER
AND**

SHRI SANDEEP SINGH KARHAIL, HON'BLE JUDICIAL MEMBER

ITA No. 192/MUM/2024 (A.Y. 2012-13)

DCIT -1(1)(1) 579, Aaykar Bhavan, M.K Road Mumbai - 400020	V.	M/s. Amit International Limited 403A, Dalamal Chambers 29 New Marine Lines Churchgate, Mumbai- 400020 PAN: AABCA2759C
(Appellant)		(Respondent)

Assessee Represented by	:	Shri Prakash Jotwani
Department Represented by	:	Shri Sunny Kachhwaha
Date of conclusion of Hearing	:	29.05.2024
Date of Pronouncement	:	29.05.2024

ORDER

PER NARENDRA KUMAR BILLAIYA (AM)

1. This appeal by the revenue is preferred against the order dated 08.11.2023 by National Faceless Appeal Centre, Delhi [hereinafter in short "Ld. CIT(A)"] pertaining to A.Y. 2012-13.

2. The sum and substance of the grievance of the revenue is that Ld.CIT(A) erred in deleting the addition of ₹.48,93,000/- made under

section 68 of Income-tax Act, 1961 (in short "Act") in respect of sales realisation.

3. Briefly stated the facts of the case are that the assessee filed its return of income declaring a total income of ₹.NIL on 14.09.2012 after set off of brought forward loss of ₹.4,96,719/-. The return was processed under section 143(1) of the Act and subsequently assessment was framed under section 143(3) of the Act accepting the return as NIL. Subsequently, on the basis of the information received from DDIT(Investigation), Unit -6(4), Mumbai the Assessing Officer reopened the completed assessment. The reasons for reopening the assessment were that, during the course of the investigation in the case of M/s.Arпита Tradelink Pvt. Ltd., it came to the notice of the Department that huge transfers were carried out through RTGS. Ex-facie it appears that the account was routed only to route the money of providing accommodation entries. Statement of Mr. Dilip Shah was recorded under section 131 of the Act wherein he admitted that he is engaged in the business of textile trading on commission basis but the real business is providing accommodation bills without carrying out actual trading.

4. The assessee is engaged in the business of trading in diamonds, textiles, brass cable wiping, fabrics, readymade garments, yarn, hosiery,

cotton and blended socks vests, underwear, other knitted fabrics etc. As per the information available with the Assessing Officer the assessee has received money from the shell company, therefore the assessee was asked to submit the details and to explain the transaction with M/s.Arpita Tradelink Pvt. Ltd. In its reply, the assessee categorically stated that he has no transaction with M/s. Arpita Tradelink Pvt. Ltd. during the year under consideration. It was explained that the sales amounting to ₹.1,12,69,880/- was made in A.Y. 2011-12 to M/s.Momentum Trading Co. Pvt. Ltd. and out of the said sales the assessee realized ₹.64,37,065/- during the year under consideration and the balance amount was received in the subsequent assessment year. Copies of the sales invoices, purchase Registers, delivery challans was submitted along with the submission.

5. The submissions of the assessee was dismissed by the Assessing Officer who was of the firm belief that M/s. Arpita Tradelink Pvt. Ltd., and other related companies were engaged in providing only accommodation entries and not indulged into any genuine business activity. The Assessing Officer was of the opinion that the onus lies upon the assessee to establish the genuineness of the sale made by the assessee for which the assessee has grossly failed. Invoking the provisions of section 68 of the Act the Assessing Officer concluded by

holding that the amount of ₹.48,93,000/- is unexplained cash credit and made the addition of the same under section 68 of the Act.

6. Assessee carried the matter before the Ld. CIT(A) and challenged the addition made by the Assessing Officer on the ground that the sales were already credited in the books in A.Y. 2011-12 and only amount was realized out of the said sales during the year under consideration. Therefore, no addition can be made under section 68 of the Act for the year under consideration in respect of sales made in A.Y. 2011-12.

7. After considering the facts and the submissions, the Ld. CIT(A) was convinced that the amount received by the assessee ₹.48.93 lakhs which has been added by the Assessing Officer under section 68 of the Act is out of sales proceeds already offered in the A.Y. 2011-12. Accordingly, the Ld. CIT(A) directed the Assessing Officer to verify whether the sales made to M/s. Momentus Trading Co. Pvt. Ltd., have already offered in A.Y. 2011-12 and the amount of ₹.48.93 lakhs is the amount received out of the said sales and if found correct the addition cannot be sustained and if not found correct the addition of ₹.48.93 lakhs be sustained.

8. Before us, Ld. DR supported the findings of the Assessing Officer. The counsel drew our attention to the copy of ledger account of M/s.Momentum Trading Co. Pvt. Ltd., which is Exhibited at Page No. 60 of the Paper Book and pointed out that sales of ₹.1,12,69,880/- was made in Financial Year 2010-11. The counsel drew our attention to Exhibit 61 which is the ledger account of M/s. Momentum Trading Co. Pvt. Ltd., for the year under consideration to show that the assessee has realized ₹.64,37,065/- out of the sales made in Financial Year 2010-11 and further pointed out to Exhibit 62 which is the ledger account of M/s.Momentum Trading Co. Pvt. Ltd., for Financial Year 2012-13 to show that the balance amount has been received in Financial Year 2012-13 and the amount of M/s. Momentum Trading Co. Pvt. Ltd., has been squared off.

9. We have given a thoughtful consideration to the order of the authorities below. The undisputed fact is that the assessee has made sales to M/s. Momentum Trading Co. Pvt. Ltd., amounting to ₹.1,12,69,880/- in Financial Year 2010-11 which is also evident from the copy of the ledger account at Page No. 60 of the Paper Book. It is also an undisputed fact that the assessee has realized ₹.64,37,065/- out of the sales made to M/s. Momentum Trading Co. Pvt. Ltd., in Financial year 2010-11. The entire quarrel revolves around the information that some

M/s. Arpita Tradelink Pvt. Ltd. and its associated concerns like M/s.Momentum Trading Co. Pvt. Ltd., are providing accommodation bills to the beneficiaries. We failed to understand how the sales made by the assessee to M/s. Momentum Trading Co. Pvt. Ltd., amounts to providing accommodation bills by M/s. Momentum Trading Co. Pvt. Ltd., to the assessee or by M/s. Arpita Tradelink Pvt. Ltd., to the assessee. The entire assessment proceedings are based on wrong facts. Once the sales made the M/s. Momentum Trading Co. Pvt. Ltd., has been entered in the books of accounts in Financial Year 2010-11 the sales realisation during the year under consideration cannot be by any stretch of imagination considered as unexplained cash credit under section 68 of the Act for the year under consideration. Modifying the findings of the Ld. CIT(A) the addition of ₹.48.93 Lakhs stands deleted for the year under consideration.

10. In the result, appeal filed by the revenue is dismissed.

Order pronounced in the open court on 29th May, 2024

Sd/-
(SANDEEP SINGH KARHAIL)
JUDICIAL MEMBER

Mumbai / Dated 29.05.2024
Giridhar, Sr.PS

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum