

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "E" MUMBAI**

**BEFORE MS. KAVITHA RAJAGOPAL (JUDICIAL MEMBER)**

**AND**

**SHRI OMKARESHWAR CHIDARA (ACCOUNTANT MEMBER)**

**ITA No. 1576/MUM/2024  
Assessment Year: 2010-11**

Kamal Clearing and Forwarding  
Agency Pvt. Ltd.,  
304, Vardhman Chamber 72, Kalyan  
Street, Masjid Bunder,  
Mumbai-400 009.

**PAN NO. AAACK 6472 F**  
**Appellant**

**Vs.**

ITO, Ward 6(3)(3),  
Aayakar Bhavan, M.K. Road,  
Mumbai-400020.

**Respondent**

Assessee by : Mr. Sukhsagar Syal  
Revenue by : Ms. Sudha Ramachandran, Sr. DR

Date of Hearing : 12/11/2024  
Date of pronouncement : 31/12/2024

**ORDER**

**PER OMKARESHWAR CHIDARA, AM**

This appeal by the assessee is directed against order dated 20.02.2024 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short 'the Ld. CIT(A)'] for assessment year 2018-19.



2. While filing an appeal before the Income-tax Appellate Tribunal (ITAT), the assessee company renders services as customs clearing services, filed only one ground of appeal as follows:

*1. On the facts and circumstances of the case and in law, the ld. CIT(A) has erred in sustaining the addition made by the Ld. AO u/s 68 of the Act of Rs.54,77,918/- on account of unexplained cash credit.*

3. The Ld. AO has stated the assessee company rendered services to M/s Romex International and it had to receive an amount of Rs.19,31,004/- from this company. Instead of getting the amount from M/s Romex International, the appellant company received the money from one Mr. Ravi Prakash. As Mr. Ravi Prakash has deposited cash of Rs.1.57 crores in his bank account, the ld. AO held that the appellant company is the beneficiary of the same. The Ld. AO received information from Investigation Wing of Income-tax Department that Mr. Ravi Prakash is not traceable. As the payments were not received from Mr. Romex International and huge cash was deposited in the bank account of Mr. Ravi Prakash from where appellant company received money, the Ld. AO treated the same as unexplained credit u/s 68 of the Act and added an amount of Rs.19,31,004/- while finalizing the assessment. The Ld. CIT(A) has also confirmed the addition made by the Ld. AO by holding that it is a case of money laundering, as Mr. Ravi Prakash who paid money to the appellant company to discharge the liability of M/s



Romex International is not traceable. The Ld. CIT(A) has also held that the sources of Mr. Ravi Prakash remained unexplained because Mr. Ravi Prakash deposited huge cash into his bank account. Hence, the addition made by the Ld. AO was upheld by the First Appellate Authority.

4. Aggrieved by the orders of the Ld. AO and Ld. CIT(A), the appellant filed an appeal before the ITAT with the only ground of appeal mentioned in page 1 of this order. Subsequently, an additional ground of appeal was filed on 23.10.2024 by the appellant which is reproduced below:

*“On the facts and circumstances of the case and in law, the impugned assessment proceedings are without jurisdiction in as much as they are in violation of section 147 of the Act.”*

4.1 Again another petition dated 12.11.2024 which was received by the ITAT Registrar on 21.11.2024 which states that the appellant wanted to raise another additional ground as follows:

*“On the facts and circumstances of the case and in law, the impugned reassessment order passed u/s 147 of the Act is bad in law in as much as it is only a draft order which does not contain material facts and finding, and cannot be characterized as an order of assessment.”*

5. During the hearing proceedings, the Ld. AR of the appellant has argued extensively and the summary of his arguments are as follows:

*(a) As mentioned in the first additional ground raised challenging the reopening of the assessment u/s 148 of*



*the Act, the Ld. AO mentioned that the words used by Ld. AO are “at para 3 of reasons for reopening are “suspicious” and “needs thorough investigation” and hence no “reason to belief” that there are no escapement of income.*

*(b) As the Ld. AO received information from Investigation Wing of Amritsar, to the same is borrowed satisfaction and hence reopening is not valid.*

*(c) The second additional ground of appeal raised by the appellant is that the order received assessee is only draft assessment order and the same does not contain facts and findings.*

*(d) On merits, the Ld. AR of appellant argues that, as far they are concerned, they have given all particulars like PAN card, address of Mr. Ravi Prakash who discharged the liability on behalf of M/s Romex International who is ---client.*

*(e) Services rendered to M/s Romex International were not disputed by the Ld. CIT(A).*

*(f) They have admitted the receipt as their business income and hence it cannot be added again because Mr. Ravi Prakash is not traceable.*

6. The Ld. Departmental Representative (DR) relied on the orders of the lower authorities and submitted that the addition made by Ld. AO may be confirmed for the reasons mentioned in their order.

7. Heard both sides and the decision of the Bench adjudicates that the addition made by the Ld. AO is deleted for the following reasons :

*(a) Even though the words used in the reasons for reopening are “suspicious” and needs thorough investigation, if all the three paras of “Reasons for*



*Reopening” recorded are to be read together. The Ld. AO has given detailed reasons and the information mentioned is not vague and general. A specific information was received from Investigation Wing of the Department after due enquiries and when the AO has specifically mentioned in 4th para that he has reasons to believe, the same cannot be questioned in view of the decision of Hon’ble Supreme Court in the case of Raymond Woolen Mills Ltd. 276 ITR 34 (SC) where it was held that “what is to the seen at the time of reopening of the case is only sufficient or correctness of the material. In view of this decision, the reopening of the assessment is upheld.*

*(b) The second additional ground raised was submitted on 21.11.2024, whereas the case was heard on 12.11.2024. As the petition for raising additional ground was received after the completion of hearing, the same is not entertained and dismissed. As far as the merits are concerned, the assessee cannot raise this ground because the appellant company knows all the facts and based on the same, first and second appeals were filed before the Ld. CIT(A)/ITAT and no prejudice was caused to the appellant as it has full information and even a demand notice attached to assessment order which is important.*

*(c) Coming to the merits of the case, the appellant has discharged his duty in indentifying the person who paid to them through banking channels by giving his PAN card, bank statement details etc., the appellant company is not concerned with Mr. Ravi Prakash deposit of cash in his bank account when it is not the case of Department that he is the benami company or company’s money was deposited in the Ravi Prakash’s bank account. As far as the appellant is concerned, they rendered services to M/s Romex International and Mr. Ravi Prakash paid money on behalf of/on the instruction of M/s Romex International who is a debtor of appellant company, through banking channel. It is not the contention of Department that Ravi Prakash or Romex International are fictitious entries and benamis of company.*



*(d) It is not disputed by the Department that the money received by appellant company is business income and the same was offered as such already in its books of account. Once the income is offered as "business income" by appellant, the same cannot be added again by AO.*

8. In view of the above, the appeal of the appellant company is allowed.

**Order pronounced in the open Court on 31/12/2024.**

**Sd/-  
(KAVITHA RAJAGOPAL)  
JUDICIAL MEMBER**

**Sd/-  
(OMKARESHWAR CHIDARA)  
ACCOUNTANT MEMBER**

Mumbai;  
Dated: 31/12/2024  
Rahul Sharma, Sr. P.S.

**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,

(Assistant Registrar)  
**ITAT, Mumbai**