



assessee. He further submitted that Ld. CIT(A) has simply upheld the order of the AO by stating that no documentary evidence has been filed for substantiating the claim by the assessee and passed a non-speaking order, however, the documents were filed before him, which was not considered by him. Hence, he requested to remit back the issues to the file of the AO for fresh consideration, as now the assessee is in possession of all the documents for substantiating its claim.

4. Ld. DR relied upon the orders of the authorities below.

5. I have heard both the parties and perused the records. I find that assessee has filed a Paper Book containing pages 1-21 in which he has attached the Clarification on Refund of 4% Special Additional Duty vide Circular No. 16/2008 – Customs; Procedure to be adopted for refund of 4% Special Additional Duty vide Circular NO. 6/2008-Customs; Notification for claiming refund of 4% Special Additional Duty dated 14.9.2017; Reply filed before CIT(A) dated 24.5.2018; Details of import purchases alongwith Ledger Account filed before AO during assessment proceedings; copy of bill of entries and other details submitted before AO and copy of sample tax invoice showing SAD charged from customers, which was not discussed/considered by the lower authorities, while adjudicating the issues. In view of the above contention of the assessee and in the interest of justice, I set aside the issues in dispute to the file of the AO to decide the same afresh, in accordance with law and after considering all the

documentary evidences filed by the assessee, as aforesaid and give adequate opportunity of being heard to the assessee by passing a speaking order. Assessee is also directed to fully cooperate with the AO in the proceedings and did not take any unnecessary adjournment and file all the documentary evidences before him.

6. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced on 05/02/2019.

**Sd/-**  
**[H.S. SIDHU]**  
**JUDICIAL MEMBER**

*Date 05/02/2019*

**“SRBHATNAGAR”**

**Copy forwarded to: -**

1. Appellant -
  2. Respondent -
  3. CIT
  4. CIT (A)
  5. DR, ITAT
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By Order,

Assistant Registrar, ITAT, Delhi Benches