

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

**BEFORE SH. R. K. PANDA, ACCOUNTANT MEMBER**

ITA No.740/Del/2019  
Assessment Year: 2012-13

Shweta Sharma K-1404, Exotica Fresco Near Fellx Hospital, Sector-137, Gautam Budh Nagar, UP – 201305 PAN No. BLAPS2624A	Vs	Income Tax Officer Ward – 2 (3) Noida
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Sh. Puneet Sachdeva, CA
Respondent by	Shri S. L. Anuragi, Sr. DR

Date of hearing:	14/08/2019
Date of Pronouncement:	16/08/2019

**ORDER**

**PER R.K. PANDA, AM:**

This appeal filed by the assessee is directed against the order dated 28.09.2018 of the CIT(A)-1, Noida relating to A. Y. 2012-13.

2. The assessee in its various grounds of appeal has challenged the order of the CIT(A) in sustaining the addition of Rs.24,82,668/ made by the Assessing Officer.

3. Facts of the case, in brief, are that the assessee is an individual. The original assessment in this case was completed u/s.143 (3) r.w.s 147 on 27.02.2015 on returned income of Rs.9,04,530/-. Thereafter the case was set aside by the PCIT, Ghaziabad u/s.263 dated 24.03.2017 with a direction to pass the order afresh after making complete verification of the expenses claimed by the assessee under the head commission expenses and commission expenses payable.

4. Subsequently the Assessing Officer issued statutory notices u/s. 142 (1) of the IT Act to the assessee asking for various details. Rejecting the various explanation given by the assessee, the Assessing Officer made addition of Rs.24,82,668/- being the commission paid to Sh. Saurabh Malik and Sh. Vibhor Sharma in absence of any documentary evidence filed to his satisfaction regarding justification of such commission paid.

5. In appeal the Ld. CIT(A) upheld the addition made by the Assessing Officer. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal.

6. The ld. Counsel for the assessee submitted that the CIT(A) passed the order on 06.09.2018 despite the assessee moving an application seeking adjournment of the case on that date. He has further mentioned that there is no vakalatnama of any person to appear before him. He submitted that in the interest of justice the assessee should be given an opportunity of being

heard before the CIT(A) since he has not given any opportunity to the assessee to substantiate her case.

7. The Ld. DR on the other hand heavily relied on the order of the CIT(A).

8. I have considered the rival arguments made by both the sides and perused the orders of the Assessing Officer and the CIT(A). A perusal of the order of the CIT(A) shows that he has passed the order on 06.09.2018. A perusal of para-3 of the order of the CIT(A) shows that the assessee has moved an application for adjournment on the ground that her counsel has gone out of station for audit purpose and, therefore, the case should be adjourned. However, the Ld. CIT(A) has rejected the said adjournment application and decided the appeal.

9. Considering the totality of the facts of the case and in the interest of justice I deem it proper to restore this issue to the file of the CIT(A) with a direction to give an opportunity to the assessee to substantiate her case and decide the issue as per fact and law. The assessee is also hereby directed to appear before the CIT(A) and cooperate in hearing of the appeal failing which the Ld. CIT(A) is at liberty to pass appropriate order as per law. I hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

10. In the result, the appeal filed by the assessee is allowed for

statistical purpose.

Order pronounced in the open court on 16.08.2019.

Sd/-  
**(R.K PANDA)**  
**ACCOUNTANT MEMBER**

\*Neha\*

Date:-16 .08.2019

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	14.08.2019
Date on which the typed draft is placed before the dictating Member	16.08.2019
Date on which the approved draft comes to the Sr.PS/PS	16.08.2019
Date on which the fair order is placed before the Dictating Member for Pronouncement	16.08.2019
Date on which the fair order comes back to the Sr. PS/ PS	16.08.2019
Date on which the final order is uploaded on the website of ITAT	16.08.2019
Date on which the file goes to the Bench Clerk	
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	