

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

BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER

I.T.A. No. 5043/Del/2019
Assessment Year: 2015-16

Bulktrans Supply Chain Management, vs.
35/4, 2nd Floor, Old Rajinder Nagar,
New Delhi
(PAN:AADCB6042P)
(ASSESSEE)

INCOME TAX OFFICER,
WARD-5(2), NEW DELHI

(RESPONDENT)

Assessee by: Shri Arun Kumar Gupta, AR
Revenue by: Sh. Manoj Kumar Chopra, Sr. DR.

ORDER

This appeal is filed by the assessee against the Order dated 27.03.2019 passed by the Ld. CIT(A)-2, New Delhi, relating to Assessment Year 2015-16 on the following grounds:-

- 1. That the order of the Ld. Commissioner of Income Tax (Appeals) [hereinafter refer to "Ld. CIT (A)"] dated 14.01.2019 is bad in law and on facts.*
- 2. That the order of the Ld. CIT (A) has erred in law and on the facts in confirming the addition of Rs 12,37,048/- levied u/s 40(i) (ia) of the Act on account of non deduction of TDS.*
- 3. The Ld CIT(A) has erred in not following the principles of natural justice by not cross examine the nature of payments which was in the nature of hire purchase payments and not required to deduct TDS on interest part in hire purchase instalments, Further out of 5 parties one payment of Rs. 6,09,636/- of interest was to Kotak Mahindra Bank Limited (KMBL) (disallowance of Rs. 1,82,890/-) where TDS is not required to be deducted. As such, the additions made are vitiated in law and are liable to be deleted.*
- 4. The Ld CIT(A) has erred confirming the addition made without considering the detailed submission that the nature of interest was in the nature of hire charges under hire purchase agreement.*

5. The appellant craves leave to add, alter, amend, delete, and substitute any or all the grounds of appeal before or at the time of hearing.

2. Shri Arun Kumar Gupta, Authorized Representative of the assessee appeared and stated that the learned First Appellate Authority has passed ex parte order without hearing the assessee. He requested that the issues in dispute may be set aside to the learned First Appellate Authority to decide the same afresh, as per law, after giving reasonable opportunity of hearing to the assessee.

3. Learned DR has not raised any serious objection on the request of the learned AR.

4. I have heard both the parties and perused the orders passed by the Revenue authorities especially the impugned order dated 27.03.2019 and find that learned First Appellate Authority has passed the ex parte order against the assessee without providing sufficient opportunity of hearing to the assessee.

5. Keeping in view the facts and circumstances of the present case and in the interest of justice, I am of the view that issues in dispute be set aside to the learned First Appellate Authority to decide afresh, as per law, after giving opportunity to the assessee. Accordingly, I set aside the issues in dispute to the file of Ld. CIT(A) with the directions to decide the same, as per law, after giving adequate opportunity of being heard to the assessee.

6. Keeping in view the non cooperation of the assessee before the learned First Appellate Authority, I am directing the assessee through his

counsel to appear before the learned First Appellate Authority on 24.03.2020 at 10:00 AM before the learned First Appellate Authority. It is made clear that no separate notice shall be issued to the assessee for 24.03.2020 because this order has already been pronounced in the Open Court.

7. In the result, the appeal is allowed for statistical purposes.

Order pronounced on 07/01/2020.

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

Date: 07/01/2020
SH

Copy forwarded to: -

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

By Order,

Assistant Registrar, ITAT, Delhi Benches