

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'I(2) + SMC' NEW DELHI**

**BEFORE MS SUCHITRA KAMBLE, JUDICIAL MEMBER,  
AND  
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

**ITA No. 8002/DEL/2018 ( A.Y 2015-16)**

ABC Cargo Movers 9524, Gali No. 13, Multani Dhanda, Pahar Ganj, New Delhi PIN 110055 PAN: AAMFA9197L <b>(APPELLANT)</b>	Vs	ACIT (OSD) Ward-62(5) New Delhi  <b>(RESPONDENT)</b>
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<b>Appellant by</b>	<b>Ms. Gargi Sethee, Adv</b>
<b>Respondent by</b>	<b>Sh. Jagdish Singh, Sr. DR</b>

<b>Date of Hearing</b>	<b>24.02.2020</b>
<b>Date of Pronouncement</b>	<b>26.02.2020</b>

**ORDER**

**PER SUCHITRA KAMBLE, JM**

This appeal is filed by the assessee against the order dated 14/11/2018 passed by CIT(A)-20, New Delhi for Assessment Year 2015-16.

2. The grounds of appeal are as under:-

“1. Whether on the facts and under the circumstances of the case and in law, the Commissioner of Income Tax (Appeals)-20, New Delhi was justified in dismissing the appeal without allowing any reasonable and appropriate opportunity and ignoring all the submissions made during the course of assessment proceedings.

2. Whether on the facts and under the circumstances. of the case and in law,

*the Commissioner of Income Tax (Appeals)-20, New Delhi was justified in confirming the disallowance of Rs. 1,98,180/- on account of 'Commission to Booking Agent' merely for the reason of non-compliance of notice u/s. 133(6) of the Act by the Agent.*

*3. Whether on the facts and under the circumstances of the case and in law, the Commissioner of Income Tax (Appeals)-20, New Delhi was justified in making arbitrary disallowance of entire claim on account of 'Rebate & Refund' of Rs. 13,29,622/- with-the observation that submissions with reference to nature of expenses claim under the captioned head was general in nature."*

3. The assessee is a partnership firm engaged in the business of goods transport having its operation at Delhi-Rajkot(Guj.)-Delhi. Income tax return for the Assessment Year 2015-16 was filed on 25.09.2015 declaring taxable income of Rs. 11,15,403/-. The assessment was completed u/s 143(3) of the Income Tax Act, at total income of Rs. 26,43,202/- thereby making addition of Rs. 1,98,180/- towards commission, Rs. 13,29,622 towards disallowance in respect of rebate and refunds claimed by the assessee.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the CIT(A) has not given any opportunity of hearing and passed ex-parte order without discussing merits of the case. Therefore, the Ld. AR submitted that the matter may be remanded back to the file of the CIT(A) for deciding the issues on merit.

6. The Ld. DR relied upon the assessment order and the order of the CIT(A).

7. We have heard both the parties and perused the material available on

record. It is pertinent to note that the CIT(A) dismissed the appeal on the ground of failure that on the part of the assessee failed to give any reasonable explanation against the additions made by the Assessing Officer to its total income. From the perusal of the order, the CIT(A) has also commented on the merit that the assessee has not substantiated its claim in respect of rebate and refund. It can be seen from the assessment order that the Assessing Officer has not demonstrated as to why the commission received by Sushil Kumar from the assessee has to be added to the income of the assessee. Further, the claim of rebate and refund was also not correctly examined by the Assessing Officer. The CIT(A) also has not taken cognizance of these facts and decided both the issues without giving any proper finding. Therefore, it will be appropriate to remand back both the issues to the file of the CIT(A). Needless to say, the assessee be given opportunity of hearing by following principles of natural justice. The appeal of the assessee is partly allowed for statistical purpose.

8. In result, appeal of the assessee is partly allowed for statistical purpose.

**Order pronounced in the Open Court on 26th FEBRUARY, 2020.**

**Sd/-**  
**(PRASHANT MAHARISHI)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

Dated: 26/02/2020  
R. Naheed

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	24.02.2020
Date on which the typed draft is placed before the dictating Member	25.02.2020
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	26.02.2020
Date on which the final order is uploaded on the website of ITAT	26.02.2020
Date on which the file goes to the Bench Clerk	26.02.2020
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	