

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC", NEW DELHI  
BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER

	I.T.A.No. 5903/DEL/2017	
	A.Y. : 2014-15	
AMBEY SUPPLIERS PVT. LTD. HOUSE NO. W-21, FIRST FLOOR RP, RAJOURI GARDEN, NEW DELHI - 110 027 (PAN: AAHCA5174F)	VS.	ITO, WARD 2(3) NEW DELHI
(APPELLANT)		(RESPONDENT)

Assessee by : Dr. Shashwat Bajpai & Sh.  
Shara Agarwal, Advocates  
Department by : Ms. Ashima Neb, Sr. DR

**ORDER**

The Assessee has filed the present appeal against the impugned order dated 20/7/2017 passed by the Commissioner of Income Tax (Appeals)-I, New Delhi pertaining to the assessment year 2014-15.

2. The following grounds have been raised in the Assessee's appeal.
1. That on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in making the said addition as against the principles of law.
  2. That the Ld. CIT(A) has erred both in law and on facts in partly upholding the order of the AO, and confirming the action of AO in making an adhoc disallowance of expenses to the tune of Rs. 5,68,194/-.
  3. The Ld. CIT(A) has grossly erred in affirming the disallowance partially, without giving any reasoning at all and is completely a non speaking order, without any reasoning being given in response to the assessee's submission.
  4. That the Ld. CIT(A) has erred both in law and on facts in restricting the disallowance from 20% as per AO to 10% of the expenses incurred by the appellant on

account of site/ naka running expenses and administrative expenses, completely on an adhoc / estimate basis without providing any reasons at all.

5. That the Ld. CIT(A) has erred both in law and on facts in as much as is settled law that there can be no addition on estimate basis.
6. The Ld. CIT(A) grossly erred and failed to consider the AO had passed the order based on mere suspicions and conjectures and based on general observations, unfounded in law or in facts.

The above grounds of appeal are independent of and without prejudice to each other.

3. The brief facts of the case are that the assessee company engaged in the business of mining. The assessee filed its return of income on 30.9.2014 declaring an income of Rs. 90,87,740/-. The AO completed the assessment on 28.12.2016 determining the total income of Rs. 25,55,930/-. In the assessment order, the AO disallowed 20% expenses out of the total expenditure of Rs. 28,40,970/- and added Rs. 5,68,194/-. Against the assessment order, the assessee appealed before the Ld. CIT(A), who vide his impugned order dated 20.7.2017 partly allowed the appeal of the assessee.

4. Against the impugned 20.7.2017 of the Ld. CIT(A), assessee is in appeal before the Tribunal.

5. During the hearing, Ld. Counsel of the assessee has stated that addition made by the AO and confirmed by the Ld. CIT(A) is against the principles of law. He further stated that Ld.CIT(A) while partially affirming the disallowance, passed a non-speaking order, without any reasoning being given in response to the assessee submission. He further stated Ld. CIT(A) erred both in law and on facts in restricting the disallowance from 20% to 10% of the expenses incurred by the assessee on account of site / naka running expenses and administrative expenses, completely on an adhoc / estimate basis without providing any reasons at all. Hence, he requested to delete the addition in dispute.

6. On the contrary, Ld. DR relied upon the impugned order and stated that during the course of assessment proceedings, it was observed by the AO that expenses recorded by the assessee in the books of accounts was not found properly vouched and payments have been made in cash, therefore, to cover the possible pilferage, AO disallowed 20% of the expenses and added Rs. 5,68,194. But Ld. CIT(A) considering the nature of the business of the assessee company and facts of the case, restricted the disallowance @10% of the expenses incurred by the assessee on account of site / naka running expenses and administrative expenses and restricted the addition to Rs. 2,84,097/-. Keeping in view of the facts and circumstances of the case and in the interest of justice, I restrict the disallowance @ 5% of the expenses incurred by the assessee on account of site / naka running expenses and administrative expenses amounting to Rs. 1,42,049/-.

7. In the result, the Appeal filed by the assessee stands allowed.

Order pronounced on 09/05/2018.

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

*Date 09/05/2018*

"SRBHATNAGAR"

**Copy forwarded to: -**

1. Assessee-
2. Respondent -
3. CIT
4. CIT (A)
5. DR, ITAT

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By Order,

Assistant Registrar,  
ITAT, Delhi Benches