

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

(THROUGH VIDEO CONFERENCING)

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

**ITA No.3053/Del/2019
[Assessment Year : 2012-13]**

Onwheels Auto Finance & Leasing Pvt.Ltd., C/o-L N Malik & Co, CA, 18/13, WEA, Karol Bagh, New Delhi-110005. PAN-AAACO5617N	vs	ITO, Ward-19(1), New Delhi.
APPELLANT		RESPONDENT
Appellant by	Sh.Satish Khosla, Adv. & Sh.Manish Mailk, Adv.	
Respondent by	Sh. Om Prakash, Sr.DR	
Date of Hearing	04.01.2022	
Date of Pronouncement	04.01.2022	

ORDER

PER KUL BHARAT, JM :

This appeal filed by the assessee for the assessment year 2017-18 is directed against the order of Ld.CIT(A)-8, New Delhi dated 30.07.2020. The assessee has raised following grounds of appeal:-

1. *“That in the facts and circumstances of the case the Ld. CIT(A) grossly erred in confirming the order and sustaining the addition of Rs.8,31,442/- made by the Ld. Assessing Officer on account of alleged difference in closing and opening balance of the partners capital account as on 30.3.2011 and 01.04.2011 by treating the same as unexplained u/s, 69 of the I.T. Act, 1961.*
2. *That in the facts and circumstances of the case the Ld. CIT(A) grossly erred in confirming the order and sustaining the addition of Rs.7,86,3841/ - made by the Ld. Assessing Officer treating the same as interest income of the appellant as income from other sources.*

3. *That in the facts and circumstances of the case the Ld. CIT(A) grossly erred in confirming the order and sustaining the disallowance of Rs.39,888/- made by the Ld. Assessing Officer u/s. 40a(ia) of the 1. T. Act, 1961.*

4. *That in the facts and circumstances of the case the Ld. CIT(A) grossly erred in not providing sufficient opportunity to the appellant to explain its case while disposing off the appeal of the appellant.*

5. *That the appellant craves, leave to add, amend or alter any grounds of appeal either before or at the time of hearing of appeal.”*

2. At the outset, Ld. Counsel for the assessee does not wish to press Ground No.3. Therefore, Ground No.3 raised by the assessee is dismissed.

3. Ld. Counsel for the assessee has raised Ground No.4 against not providing adequate opportunity to the assessee to explain its case while disposing of the appeal. Ld. Counsel for the assessee submitted that the assessee may be provided an opportunity to explain the case before the lower authorities.

4. Ld. Sr. DR has no objection.

5. I have heard the rival submissions and perused the material available on record and gone through the orders of the authorities below. I find that before Ld.CIT(A), there was no representation on behalf of the assessee. Ld.CIT(A) has recorded that notice issued on 19.08.2016 and subsequent notices dated 03.10.2016 & 25.11.2016 were not complied by the assessee as no one appeared on behalf of the assessee. I find that Ld.CIT(A) in para 1 has provided various opportunities to the assessee, stated as under:-

“.....

Findings:- Opportunities granted to the appellant:-

(i) On 08.08.2016 notice u/s 250 issued and case was fixed for hearing on 14.09.2016.

(ii) On 29.08.2016 notice received back undelivered.

(iii) On 03.10.2016 another notice u/s 250 issued and case was fixed for hearing on 03.11.2016. No one attended on 03.11.2016.

(iv) On 25.11.2016 another notice u/s 250 issued case fixed for hearing on 20.12.2016. No one attended on 20.12.2016 or till the passing of this order.”

5.1. This demonstrates that the assessee was not serious in attending the proceedings. However, considering the interest of principle of natural justice, I deem it proper to restore the remaining grounds to Ld.CIT(A) for fresh adjudication after giving sufficient opportunity to the assessee. Thus, Ground Nos.1 & 2 raised by the assessee are allowed for statistical purposes.

6. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 04th January, 2022.

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

Amit Kumar

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI