

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "A" BENCH: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER &
SHRI M.BALAGANESH, ACCOUNTANT MEMBER**

ITA No.3695/Del/2019

[Assessment Year : 2012-13]

Bhasin Motors India Pvt.Ltd., 28, Raja Garden, New Delhi-110015. PAN-AAACB8884C	vs	ITO, Ward-4(4), New Delhi.
APPELLANT		RESPONDENT
Appellant by	Shri Vikas Jain, Adv.	
Respondent by	Shri Kanv Bali, Sr. DR	
Date of Hearing	18.10.2023	
Date of Pronouncement	18.10.2023	

ORDER

PER KUL BHARAT, JM :

The present appeal filed by the assessee is directed against the order passed by Ld.CIT(A)-2, New Delhi dated 28.02.2019 for the assessment year 2012-13.

2. The assessee has raised following grounds of appeal:-

1. *“That the order passed U/s 250 is illegal, bad in law and against the principle of natural justice.*
2. *That the notice issued by the CIT(A) was never received by the appellant and thus order passed against the principle of natural justice.*
3. *That the notice issued and reassessment order passed U/s 148 is bad in law and without jurisdiction.*

4. *That the reason to believe was never framed by the AO and notice issued without any tangible material is illegal bad in law and without jurisdiction and is also based on change of opinion.*
5. *That Assessing Officer (Hereinafter to be referred as an AO) has erred in law and on facts in making an addition of Rs.1,71,05,000/- U/s 68 of the Income Tax Act and CIT(A) has erred in law in upholding the addition.*
6. *That AO erred in law and on facts in adding the loan of Rs.1,71,05,000/- taken from Venezia golf City Pvt Ltd (VGCPL) in the income of the appellant company when the same was returned by the company to VGCPL in the subsequent year.*
7. *That the appellant company has and creditworthiness of the payer and genuineness of the transaction before the Assessing Officer and as such an AO has erred in law and on facts has disregarded law by making an addition U/s 68 of the Act.*
8. *That AO has erred in law and of facts in making an addition U/s 68 on the ground that no business activity was carried out by Venezia Golf City Pvt Ltd.*
9. *Without prejudice to the above, the AO has erred in law and on facts in making double addition as same amount has been taxed in hands of Venezia Golf City Pvt Ltd.*
10. *That addition of Rs. 3,00,000/- is apparently illegal bad in law and without jurisdiction.*
11. *That the addition/ disallowance made are illegal, unjust and bad in law and are based on mere surmises and conjunctures and the same cannot be justified by any material on record.*
12. *That the evidence filed and materials available on record have not been properly construed and judiciously addition /disallowance made is uncalled for.*

13. *That the observation made by an AO and subsequently by the CIT(A) are unjust, improper and without any material on record.*

14. *The Appellant craves leave to add, amend, alter and/or delete any of the above grounds of appeal at or before the time of hearing.”*

3. Facts in brief of the case are that the assessee is a company duly incorporated under the Companies Act and filed its return of income, declaring total income of INR 1,59,10,073/- on 25.09.2012. The case was re-opened for assessment and the assessment was concluded vide order dated 30.12.2017 u/s 143(3) r.w.s. 147 of the Income Tax Act, 1961 (“the Act”). Thereby, the Assessing Officer (“AO”) made disallowance of expenditure of INR 3,00,000/- and unexplained unsecured loans amounting to INR 1,71,05,000/-.

4. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions, dismissed the appeal *ex-parte* to the assessee.

5. Aggrieved against the order of Ld.CIT(A), the assessee preferred appeal before this Tribunal.

6. At the outset, Ld. Counsel for the assessee submitted that the assessee was not provided adequate opportunity of hearing by Ld.CIT(A). The notices sent by Ld.CIT(A) were not received by the assessee. Therefore, there was a reasonable cause for not attending the appellate proceedings before Ld.CIT(A). He contended that in the interest of principle of natural justice, an opportunity be granted to the assessee for representing its case before Ld.CIT(A).

7. On the other hand, Ld. Sr. DR opposed these submissions and supported the orders of the authorities below. He contended that the assessee itself was negligent for not attending the appellate proceedings before the Appellate Authority. He contended that three opportunities were granted to the assessee and Ld.CIT(A) in para 3 has recorded that no one attended the proceedings on behalf of the assessee.

8. We have heard Ld. Authorized Representatives of the parties and perused the material available on record. We find that Ld.CIT(A) has decided the issue *ex-parte* to the assessee. However, Ld.CIT(A) has not adverted the issues on merit and dismissed the appeal of the assessee. Therefore, looking to the facts and material available on record, we are of the considered view that the assessee ought to have given adequate opportunity of being heard. Therefore, the impugned order passed by Ld.CIT(A) is hereby, set aside and the grounds are restored to the file of Ld.CIT(A) to decide it afresh after giving adequate opportunity of being heard to the assessee. Thus, grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 18th October, 2023.

Sd/-

**(M.BALAGANESH)
ACCOUNTANT MEMBER**

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