



IN THE INCOME TAX APPELLATE TRIBUNAL

"F" BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER

ITA no.7216/Mum./2018
(Assessment Year : 2014-15)

Flat World Processes Pvt. Ltd.
1107, Post Sai Village
Bhonnagar Taluka, Panvel
Raigarh - 410 206
PAN - AABCF1764G

..... Appellant

v/s

Income Tax Officer
Ward-9(3)(3), Mumbai

..... Respondent

Assessee by : None
Revenue By : Shri Chintamani Dingankar

Date of Hearing - 23.11.2020

Date of Order - 27.11.2020

ORDER

PER SAKTIJIT DEY. J.M.

The aforesaid appeal has been filed by the assessee challenging the order dated 28th September 2018, passed by the learned Commissioner of Income Tax (Appeals)-16, Mumbai, pertaining to the assessment year 2014-15.

2. When the appeal was called for hearing, no one was present on behalf of the assessee to represent the case. There is no application

seeking adjournment either. Considering the nature of dispute, we proceed to dispose off the appeal ex-parte qua the assessee after hearing the learned Departmental Representative and on the basis of material available on record.

3. Brief facts are, the assessee, a resident company, is stated to be engaged in the business of network service center and service provider to businesses. For the assessment year under dispute, the assessee filed its return of income on 1st October 2014, declaring loss of ₹ 10,06,995. In the course of assessment proceedings, the Assessing Officer called upon the assessee to explain the allowability of ₹ 1,10,24,562, and ₹ 2,03,26,243, debited to the Profit & Loss Account towards provisions of diminution of investment and investment written off respectively. As observed by the Assessing Officer, in response to the show cause notice issued, the assessee vide letter dated 26th November 2016, filed a revised computation disallowing provisions of diminution of investment and investments written-off. Thus, ultimately, the Assessing Officer completed the assessment disallowing the amounts of ₹ 1,10,24,562 and ₹ 2,03,26,243. Against the assessment order so passed, the assessee preferred appeal before the first appellate authority and dismissed the appeal filed by the assessee.

4. We have heard the learned Departmental Representative and perused the material on record. As it appears from the facts on record, before the Assessing Officer the assessee had filed revised computation of income disallowing provisions for diminution of investment and investment written-off. Probably, on the basis of such revised computation of income, the Assessing Officer had completed the assessment by disallowing the aforesaid two deductions claimed by the assessee in the return of income. However, before the first appellate authority the assessee had specifically challenged the aforesaid disallowances. As it appears from the order of the first appellate authority, he has decided the appeal ex-parte in the absence of the assessee. It is not forthcoming from the order of the first appellate authority whether any opportunity for personal hearing was granted to the assessee or not. Though, learned Commissioner (Appeals) has referred to a written submission filed by the assessee, however, nothing much could be made out from the observations of learned Commissioner (Appeals) whether he has specifically dealt with the submissions. In our view, considering the fact that the appeal has been decided ex-parte, the assessee should be provided proper opportunity of hearing as regards the issues raised before the first appellate authority. Accordingly, we set aside the impugned order of the learned Commissioner (Appeals) and restore the issue back to his

file for fresh adjudication. The assessee is also directed to co-operate in the proceedings by appearing before the first appellate authority. Accordingly, grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 27.11.2020

Sd/-
MANOJ KUMAR AGGARWAL
ACCOUNTANT MEMBER

Sd/-
SAKTIJIT DEY
JUDICIAL MEMBER

MUMBAI, DATED: 27.11.2020

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The CIT(A);*
- (4) *The CIT, Mumbai City concerned;*
- (5) *The DR, ITAT, Mumbai;*
- (6) *Guard file.*

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Assistant Registrar
ITAT, Mumbai