

**IN THE INCOME TAX APPELLATE TRIBUNAL (VIRTUAL COURT)
"SMC" BENCH, MUMBAI**

BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER

ITA NO. 1377/MUM/2020 (A.Y: 2015-16)

M/s. Union Steel Associates C/o. R.C. Reshamwala & Co. Chartered Accountants 323, Varma Chambers 11, Homji Street, Fort Mumbai -400001 PAN: AACFU5320P	v.	ACIT – Circle - 29(3) Room No. 208, C-10, 2 nd Floor Pratyakshkar Bhavan Bandra Kurla Complex Bandra (E), Mumbai – 400051
(Appellant)		(Respondent)

Assessee by	:	Manish Reshamwala
Department by	:	Sanjay J. Sethi
Date of Hearing	:	14.09.2021
Date of Pronouncement	:	14.09.2021

ORDER

PER C.N. PRASAD (JM)

1. This appeal is filed by the assessee against order of Learned Commissioner of Income Tax (Appeals)–40, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 13.12.2019 for the A.Y. 2015-16.
2. Assessee has raised following grounds in its appeal: -

"1. The Commissioner of Income Tax Appeal has erred in passing an order ex-parte on the appeal filed before him, against the order of the AO, on the first date of the hearing itself even when a letter was filed requesting for adjournment.

2. On the facts and the circumstances of the case, and in law the learned Commissioner of Income Tax Appeal has erred in upholding the order of the Asst. Comm. of Income Tax, in disallowing and adding a sum of Rs. 20,16,361 being the expenditure incurred for the purposes of Business Promotion / Entertainment and thereby reducing the loss.

3. The appellant reserves its right to add to, alter, or amplify the grounds of appeal.

RELIEF CLAIMED IN APPEAL

1. Additions made on account of disallowance of business promotion / Entertainment expenses amounting to Rs. 20,16,361 be allowed in full."

3. Ld. Counsel for the assessee submits that Ld.CIT(A) passed exparte order without providing adequate opportunity of being heard to the assessee, therefore, considering additions/disallowance made by the Assessing Officer Ld. Counsel for the assessee requested that the matter may be restored to the file of the Ld.CIT(A).

4. Ld. DR has no serious objection in remitting the matter back to the file of the Ld.CIT(A).

5. Heard both sides, perused the orders of the authorities below. On a perusal of the Ld.CIT(A) order, we find that the Ld.CIT(A) on the first

date of hearing without providing any adjournment as sought by the assessee, passed ex parte order. Considering the totality of facts and submissions of the Ld.Counsel for the assessee and keeping in view the additions/disallowance made by the Assessing Officer, I am of the opinion that assessee should be given one more opportunity of being heard. Thus, this appeal is restored to the file of the Ld.CIT(A) for denovo adjudication in accordance with law. Assessee is directed to appear before Ld.CIT(A) and shall cooperate with the appellate proceedings without taking unnecessary adjournments. Thus, this appeal is restored to the file of the Ld.CIT(A) accordingly.

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

Order pronounced in the virtual court on 14.09.2021.

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER
Mumbai / Dated 14/09/2021
Giridhar, Sr.PS

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum