

Failure to file evidence showing services were received from AE - fresh adjudication directed by ITAT

Summary – The Bangalore ITAT in a recent case of Cisco Systems Capital (India) (P.) Ltd., (the Assessee) held that since there was a failure by the assessee to file evidence showing services were received from AE fresh adjudication was required

Facts

- The Assessing Officer noted that the assessee had entered into international transaction with its AE and a reference was made to the TPO.
- The TPO on examination found out that the assessee claimed payments towards administrative support services but could not explain its claim and therefore he disallowed the claim.
- The DRP confirmed the disallowance.
- On appeal to Tribunal:

Held

- The ITAT held that as per the TPO, the assessee has failed to produce any evidence to substantiate its claim of receiving services. The assessee however had claimed that it had submitted the copies of agreement with the associated enterprise but the assessee is also required to prove that the associated enterprise has rendered services for which management fee is being paid. The assessee has stated that it is in possession of the relevant evidence to prove that the relevant services have been rendered by the associated enterprise and prayed that the issue may be remanded to the file of the TPO for re-adjudication.
- Thus, accepting the contention of the assessee, this issue is remanded back to the file of the Assessing Officer/TPO for re-adjudication.