

IN THE INCOME TAX APPELLATE TRIBUNAL

“B” BENCH : BANGALORE

BEFORE SHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER AND  
SHRI LALIET KUMAR, JUDICIAL MEMBER

IT(TP)A No. 2300/Bang/2016
Assessment Year : 2009-10

M/s. Cisco Systems Capital (India) Private Limited, Brigade South Parade, # 10, M.G. Road, Bangalore – 560 001. <b>PAN: AACCC4552A</b>	vs.	The Assistant Commissioner of Income Tax, Circle – 2 (1) (1), Bangalore.
APPELLANT		RESPONDENT
Appellant by	:	Shri Rajan Vora, CA
Respondent by	:	Ms. Neera Malhotra, CIT (DR)
Date of hearing	:	18.03.2019
Date of Pronouncement	:	22.03.2019

**ORDER**

*Per Shri A.K. Garodia, Accountant Member*

This appeal is filed by the assessee and the same is directed against the assessment order passed by the AO on 26.10.2016 u/s. 143(3) r.w.s. 254 of IT Act, 1961 for Assessment Year 2009-10.

2. The grounds raised by the assessee are as under.

*“Based on the facts and circumstances of the case and in law, Cisco Systems Capital (India) Private Limited (hereinafter referred to as the 'Appellant') respectfully craves leave to prefer an appeal against the order passed by the Assistant Commissioner of Income-tax - Circle 2(1)(1) ('Assessing Officer' or 'AO') dated October 26, 2016 in pursuance of the order issued by the Hon'ble Bangalore ITAT ('Tribunal'), dated October 10, 2014, under section 254 of the Income-tax Act, 1961 ('Act') on the following grounds:*

**A. Grounds of appeal relating to corporate tax matters**

*That on the facts and in the circumstances of the case and in law and based on the order of the Tribunal*

*1. The learned AO has erred in violating the principles of judicial discipline in not strictly following the directions of the Hon'ble tribunal and going beyond his jurisdiction in remand proceedings while giving effect to the Hon'ble Tribunal order.*

*2. The learned AO has erred in law and in fact by disallowing the claim for depreciation of INR 73.36,95,679 (being*

*depreciation claimed on assets given on finance lease amounting to INR 142,35,33.119 as reduced by INR 68,98,37,440 being lease rentals on finance lease which is offered to tax) on networking equipments leased under the finance lease arrangement.*

*3. The learned AO has erred in law and in fact by disregarding the ownership status of Cisco Capital India in relation to the assets leased out by it under finance lease transaction.*

*4. Without prejudice to the above grounds. the learned AO has erred in law and in fact, by not allowing depreciation on the opening written down value (WDV) of the block of assets leased out under finance lease arrangement, pursuant to allowance of depreciation at the rate of 15%/ 60% on the same block of assets for previous years.*

**B. Grounds of appeal in relation to transfer pricing matters**

*5. The learned TPO/ learned AO have erred, in law and in facts, by considering Comparable Uncontrolled Price ("CUP") method as most appropriate method and not accepting TNMM adopted by the Appellant for determining the ALP of the international transaction pertaining to payment for availing administrative support services from CSC Singapore and CSC Australia.*

*6. The learned TPO/ learned AO have erred, in law and in facts, by applying CUP method, without undertaking an objective analysis for identifying comparable transactions and determining the ALP in respect of the payments made to CSC Singapore & CSC Australia for receipt of administrative support fees as 'NIL'*

*7. The learned TPO/ learned AO have erred, in law and in facts, in rejecting overseas Associated Enterprises ('AEs') (i.e. CSC Singapore & CSC Australia) as the tested party and considering Cisco Capital India as the tested party.*

*8. The learned TPO/ learned AO have erred, in law and in facts, in rejecting foreign comparables.*

*9. The learned TPO and the learned AO have erred, in law and in facts, by stating that no service has been rendered by CSC Singapore and CSC Australia and no benefit has been derived from the administrative support services provided. Further, the learned TPO and the learned AO erred, in law and in facts, by concluding that no tangible and substantial commercial benefit was derived out of such payments made to CSC Singapore and CSC Australia.*

*10. The learned TPO and the learned AO have erred, in law and in facts, in concluding that the Appellant did not show whether the services were actually rendered by CSC Singapore and CSC Australia and ignoring the submissions made by the Appellant on the nature of services and the justification provided for the payment of administrative support services fees.*

**C. Grounds in relation to other matters**

11. *The learned AO has erred in law by re-computing the total income of the Appellant without giving effect to the set off of brought forward depreciation loss from the prior years.*

12. *The learned AO has erred in law and in facts, by considering a refund amounting to INR 13,75,81,780 and also computing interest amounting to INR 91,28,688 under section 234D of the Act on the said refund, while computing the tax liability, though the said refund was not received by the Appellant till date.*

*The Appellant submits that each of the above grounds is independent and without prejudice to one another.*

*The Appellant craves leave to add, alter, amend, vary, omit or substitute any of the aforesaid grounds of appeal at any time before or at the time of hearing of the appeal, so as to enable the Hon'ble Tribunal to decide on the appeal in accordance with the law."*

3. At the very outset, the Id. AR of assessee submitted a letter dated 15.03.2019 and submitted that as per this letter, the assessee intends to withdraw the appeal filed by the assessee. The Id. DR of revenue had no objection to this request of assessee for withdrawing the appeal. Hence we accept this assessee's request for withdrawal of the appeal. The appeal of the assessee is dismissed as withdrawn.
4. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on the date mentioned on the caption page.

Sd/-  
(LALIET KUMAR)  
Judicial Member

Sd/-  
(ARUN KUMAR GARODIA)  
Accountant Member

Bangalore,  
Dated, the 22<sup>nd</sup> March, 2019.  
/MS/

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|---------------|------------------------|
| 1. Appellant  | 4. CIT(A)              |
| 2. Respondent | 5. DR, ITAT, Bangalore |
| 3. CIT        | 6. Guard file          |

By order

Assistant Registrar,  
Income Tax Appellate Tribunal,  
Bangalore.