

## **Sum received for rendering composite service of managerial and technical nature can't be taxed without segregation**

**Summary – The Mumbai ITAT in a recent case of Lloyds Register U.K., (the Assessee) held that where assessee rendered composite service of managerial and technical nature to its Indian subsidiary and Commissioner (Appeals) taxed half of receipts therefrom without analyzing bills to segregate them, action of Commissioner (Appeals) was not justified**

### **Facts**

- The assessee received certain amounts from its subsidiaries in India. It showed said receipts as income from managerial services. It claimed that said receipts were not taxable in India.
- The Assessing Officer held that said receipts were taxable in India as fee for technical services.
- The Commissioner (Appeals) held the assessee rendered composite service of managerial and technical nature and it was difficult to segregate them. He, therefore, held that half of the receipts from managerial services were to be taxed in India.
- On cross appeals before the Tribunal:

### **Held**

- The Commissioner (Appeals) had not given any reason as to why 50 per cent of the receipts should be treated as managerial service. The assessee as an alternate plea had stated that if any addition was to be made it should have been restricted to 10-15% of the payment. The Commissioner (Appeals) had discussed a few services and has stated that same could be treated as managerial service. But, he has not analysed the bills that would give him a clear and fair idea as to which services were actually rendered by the assessee for the year under consideration and that which could be treated as managerial service or otherwise. Without establishing the primary facts, he should not have decided the issue. There is no reason for holding that 50 per cent of the managerial charges should be taxed. Therefore, matter needs further investigation and verification, as order of Commissioner (Appeals) lacks reasoning. Therefore, in the interest of justice, the issue is being restored back to the file of the Commissioner (Appeals) for fresh adjudication who will decide the issue afresh after affording a reasonable opportunity of hearing to the assessee.