

ITAT directs re-examination of Non-speaking order passed by CIT(A)

Summary – The Delhi ITAT in a recent case of Comverse Network Systems India (P.) Ltd., (the Assessee) held that a non-speaking order passed by CIT(A) needs a re-examination

Facts

- The assessee had undertaken international transactions in respect of sales and post-sales support and purchase of fixed assets.
- The assessee had selected some comparables whose PLI was computed at 1.75 per cent against the assessee's PLI of 5.96 per cent and thus concluded that the transaction was at arm's Length Price (ALP).
- The TPO accepted some of the assessee's comparables and included some more and ultimately proposed an adjustment of Rs. 1.56 crore.
- On appeal, the Commissioner (Appeals) allowed partial relief to the assessee by directing exclusion of certain comparables.
- In the instant appeal before the Tribunal, the assessee contented that Commissioner (Appeals) had wrongly rejected certain companies selected by assessee and added some more companies to the final list of comparables on an *ad hoc*-basis without giving any reason.

Held

- The ITAT examined that there was exclusion of five comparables and inclusion of three comparables which had been contested by the assessee. From the order it becomes clear that the Commissioner (Appeals) has not properly considered the objections/submissions of the assessee on a number of comparables and has passed a non-speaking order in respect of some of the comparables.
- The ITAT thus directed the matter to be restore for adjudication on the exclusion and inclusion of the eight comparables to the file of the Commissioner (Appeals).