



The Hon'ble ITAT bench Bangalore held that, if the Revenue fails to produce any positive evidence against the assessee, the assessee does not require to prove the revenue negative.

Saudi Telecom Company [TS-84-ITAT-2023(Bang)]

Bangalore, March 03, 2023

In the present case, the assessee was subjected to reassessment proceedings whereby the Revenue made the addition of Rs.102.02 Cr (USD 20 million) on the basis of AAR (ruling Authority for Advance Ruling) as given in the case of Dishnet (AAR No.863 dated 24.08.2012)

In Dishnet's case, AAR held that payment made towards capacity transfer is taxable as a royalty in India.

*But the assessee contended that no event occurred for taxing the impugned amount during the year under consideration.*

**The Hon'ble ITAT held that: -**

- There has been no occurrence of any taxable event in the year under consideration.
- The revenue has not brought anything on record to substantiate the claim of the Revenue.
- The assessee cannot be asked to prove the negative fact that no payments are received during the impugned year in the absence of any positive evidence to the contrary by the revenue

