

Sys Arris Software Pvt Ltd – ITAT - Bangalore

Outcome: In **favour** of taxpayer

Category: Forex gain/loss

Tax Court upheld taxpayer's contention for inclusion of foreign exchange gain/loss while computing the operating margins and also placed reliance on OECD guidelines on transactional profit methods.

TNS India Pvt Ltd – ITAT - Hyderabad

Outcome: In **favour** of taxpayer

Category: Management fees benchmarking

With respect to payment of management fees, tax court upheld taxpayer's contention that as the services were received on continuous basis determination of Arm's Length Price (ALP) at 'Nil' value carried by TPO was incorrect.

Further, tax court observed that TPO had not brought out any comparable company under CUP method to justify the determination of ALP at 'Nil' value, which was not in terms of statutory provisions.

Comments: It is important for taxpayer's to prove the genuinity of transaction by proving receipt of such services and mode of valuing such services.

Recent News:

Advance Pricing Agreement roll-back rules:

The much awaited roll back rules were prescribed by CBDT on 16 March 2015. A roll back provides for having the effect of concluded APA for the past successive 4 years immediately preceding the first year of consideration for the APA. In such a manner a taxpayer can get clarity on the aspect of Transfer Pricing for overall 9 financial years (4 past + 5 future).

The summary of rules is as follows:

- **Applicable if:**
 - Income tax declaration including form 3CEB is filed within the due date
- **Not Applicable if:**
 - APA has the effect of reducing prior year's income
 - It is subject matter at tax court (ITAT) and order is passed by such tax court
- **Fees:** Additional Rs. 5 lacs (Rs. 0.5 million)
- **Form:** 3CEDA along with proof of payment of fees

If application of APA is made prior to 1 Jan 2015, roll back request to be submitted before 31 March 2015.

Draft cabinet note on proposal to raise FDI:

The Department of Industrial Policy and Promotion (DIPP) has floated a draft cabinet note on the proposal to raise the threshold to Rs. 3,000 crore from the current limit of Rs. 1,200 crore. If DIPP suggestion is accepted, the finance minister will have the authority to approve FDI proposals of up to Rs. 3,000 crore, thereby making it less cumbersome to attract big ticket foreign investments in manufacturing and infrastructure.

Insurance Bill passed, 49 per cent FDI Approved:

The insurance bill was passed by Rajya Sabha paving the way for foreign companies to raise their stake in domestic insurance companies to 49 per cent. The passage of bill is being hailed as a big positive for the country as it increases India's visibility among foreign investors.