

A W Faber Castell (India) Pvt Ltd – ITAT – Mumbai

Outcome: In favour of taxpayer

Category: Marketing Intangible

The Tax Court upheld the taxpayer's contention that the sales related expenditure cannot form part of Advertisement, Marketing and Promotion (AMP) expenses for the purpose of determining arm's length price.

Reference was placed on the ruling of **M/s Sony Ericsson Mobile Communication wherein Hon'ble Bombay High Court held that marketing or selling expenses like trade discounts, volume discounts offered to distributors or retailers were not in nature of or character of brand promotion and thus cannot form part of AMP expenses.**

Racold Thermo Limited – ITAT – Pune

Outcome: In favour of taxpayer

Category: Rule of Consistency

The Tax Court upheld the taxpayer's views that where there is no change of facts in respect of particular transactions, then as stated in law it is necessary to maintain consistency and further the methodology adopted to benchmark the transaction should not be disturbed. Reference was placed on the decision of **John Deere P India, wherein principle of consistency was followed.**

Tax Court held that TPO does not have any merit to take contrary stand in absence of records in case where Transactional Net Margin Method (TNMM) on an aggregate basis was consistently adopted to benchmark the transaction of export.

Toyota Kirloskar Motor Pvt Ltd – ITAT – Bangalore

Outcome: In favour of Taxpayer

Category: Mutual Agreement Procedure (MAP)

In the above case, the holding company named M/s Toyota Motor Corporation filed MAP application before National Tax Authority of Japan. Since, **the domestic appeal has not been posted for hearing before the authorities**, the Indian tax Authority and National Tax Authority mutually

agreed for negotiation of income correction from INR 240 Cr to INR 91 Cr and Indian tax authorities issued MAP resolution for the same.

On above basis, it was requested to taxpayer to accept the MAP resolution. Thereby, the Tax Court upheld taxpayer's contention **to withdraw the domestic appeal which was not posted for hearing and end the litigation process.**

Hindalco Industries Ltd – ITAT – Mumbai

Outcome: In favour of department

Category: Corporate Guarantee

The Tax Court rejected taxpayer's contention that as the guarantee fee was charged for the year 2003-04, the transaction of 'corporate guarantee' was not an international transaction; with a view that the explanation to sec 92B was inserted by Finance Act 2012 and hence same should not be applicable for year under consideration. Further, Tax Court held that Expl to Sec 92B was inserted by Finance Act 2012 w.r.e from 1st April 2002, to clarify the term 'international transaction'.

Reference was placed plethora of decisions of **Manugraph India Ltd and Everest Kanto Cylinder Ltd wherein it was held that 'corporate guarantee' was an international transactions and the guarantee fee was computed @ of 0.5 per cent.**

Recent News

Foreign Investment Promotion Board (FIPB) to take up 31 FDI proposals

Inter-ministerial body FIPB announced that it will take up 31 foreign investment proposals including that of Cipla, HDFC Capital Advisors and Aditya Birla. Among others, proposals of Sun Pharma Advanced Research Company, Reliance Globalcom, Aegon Religare Life Insurance are also on the agenda. Projecting India as a "heaven" for investors, Indian Prime Minister Narendra Modi aims to increase the country's economic output from \$8 trillion to \$20 trillion by reviving faith among foreign investors.