

TransPrice Times

Edition: 15th to 31st October 2015

Herbalife International India Pvt Ltd – ITAT - Bangalore

Outcome: In favour of taxpayer

Category: TP provisions v. general provisions

The Tax Court directs that two disallowances (i.e. u/s 40A (2) and Chapter X (TP Regulations)) of the same expenditure are not permitted. As the expenditure in the nature of Admin Service Fee is an international transaction, the same would be governed by the Transfer Pricing provisions and other general provisions of computation would not apply.

Pegasystems Worldwide India Pvt Ltd –ITAT - Hyderabad

Outcome: In favour of taxpayer

Category: Characterization

The Tax Court deletes the adjustment of notional interest that was levied considering the receivables as capital financing transaction. Also holds that TPO should allow reasonable period against outstanding receivables for any adjustment.

ABB Lummus Heat Transfer BV– ITAT - Delhi

Outcome: In favour of taxpayer

Category: Most Appropriate Method (MAM)

The Tax Court upholds Internal CUP as the MAM for benchmarking 'designing and engineering services' where the same service is also provided to independent parties.

Recent News:

CBDT revises TP assessment guidance

As per the instruction, each Additional / Joint Transfer Pricing Officer is to be assigned only a limited number of important and complex cases which should exceed not 50 in number.

The tax officer should as per jurisdictional requirement be satisfied that there is income / potential income arising from international

transaction before determining the ALP or making a reference to TPO, in following circumstances:

- (i) No accountant's report filed by the tax payer, but international transactions entered by the tax payer have come to the notice of tax officer;
- (ii) Taxpayer has not declared one or more international transaction in Form 3CEB which has come to tax officer's notice;
- (iii) Where the transaction is declared in Form 3CEB with qualifying remarks to the effect that such transaction is not international transaction or it does not have impact on taxpayer's income;

Also, the TP cases for scrutiny should be based on risk assessment not a based on value unless the tax officer notices an undisclosed international transaction due to non-filing of Form 3CEB / non-reporting of such transaction.

CBDT modifies DRP Jurisdiction

The Central Board of Direct Taxes (CBDT) as per its new order has modified the jurisdiction of Dispute Resolution Panels (DRP) at [Mumbai](#) and [Bangalore](#).

The DRP shall exercise the powers and perform functions in respect of such cases or classes of cases as specified by the order.

CBDT notifies Rules for Range Concept

CBDT has notified the TP rules to incorporate 'Range Concept' and 'use of multiple year data'. The range concept is to be applicable in certain cases with data points lying between 35th to 65th percentiles. For more details please read our earlier edition which discusses the Range Concept in detail. [Click here](#) for more details.

UN Tax Committee meets in Geneva

The UN tax committee in its Addis Ababa Action Agenda recognized that taxation and international tax cooperation are critical to financing sustainable development. The main focus is on the new FTS article and automatic exchange of information.