

TransPrice Times

Edition: 16th to 31st August 2019

Elica PB India Pvt. Ltd. – Pune ITAT

Outcome: In **favour** of the taxpayer
Category: Most Appropriate Method ('MAM')

The taxpayer is engaged in the business of manufacturing and trading of household kitchen appliances, wherein for the purpose of manufacturing, it imported raw materials and finished units for assembly from its Associated Enterprises ('AEs'). The taxpayer had considered the Cost Plus Method ('CPM') as the MAM for benchmarking its manufacturing functions. CPM was rejected by the transfer pricing authorities due to absence of availability of data of costs (direct and indirect) to allocate between AE and non-AE transaction segments. Thereafter, when the taxpayer applied the internal Transactional Net Margin Method (TNMM), the same was rejected by the authorities since the AE segment was profitable but the non-AE segment was loss-making, thus failing business prudence.

In light of the above, the Tax Tribunal upheld the application of external TNMM as the MAM. However, after discussions about the inclusion and exclusion of comparables adopted by the transfer pricing authorities, the case was held in favour of the taxpayer.

Bank of Bahrain & Kuwait – Mumbai ITAT

Outcome: In **favour** of taxpayer
Category: Allocation of head-office expenses

The taxpayer is an Indian branch of a company resident outside India. The head office (outside India) allocated some costs to the Indian branch.

The transfer pricing authorities contended that the expenses of the overseas business were not required to be allocated to the taxpayer and proceeded to determine the Arm's Length Price ('ALP') of these transactions to be nil and made an adjustment.

The Tax Tribunal noted that the taxpayer neither claimed the head office expenses in its return of income nor in its books of accounts and thus, no adjustment of the same could have been made on the basis of determination of ALP at nil.

Arshiya Ltd. – Mumbai ITAT

Outcome: In **favour** of taxpayer
Category: LIBOR for interest benchmarking

The Tax Tribunal, relied on co-ordinate bench ruling in taxpayer's own case for a prior year, and held that the interest on loans advanced to AEs should be benchmarked using the LIBOR of the jurisdiction of the borrower AE.

Neilsoft Ltd. – Pune ITAT

Outcome: **Partially** in favour of both
Category: Allocation of expenses

The Tax Tribunal remitted the matter to the lower tax authorities, stating that the segmental prepared by allocation of expenses needs to be revisited since actual expenditure among the segments could be worked out since the employees are appointed segment-wise. Ideal allocation of expenses should be on basis of actuals. Other rational basis is to be considered when actuals are not available or possible.

Suggested Read: <https://transprice.blog/>