TransPrice Times

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IBM Business Consulting Service Pvt. Ltd. – Kolkata ITAT

Outcome: In favour of taxpayer
Category: ALP Computation

The taxpayer is engaged in the development of computer software and provides software and related services to its group companies. It had entered into International transactions with its Associated Enterprises ('AEs') in the nature of 'provision of software related services'. It had adopted Transactional Net Margin Method ('TNMM') as the Most Appropriate Method ('MAM') to benchmark the International transactions. On non-appearance of the taxpayer, the intermediate tax authorities selected comparables, applied the Operating Profit to Sales margin and determined the Arm's Length Price ('ALP') of the International transactions, by applying such margin to total costs to arrive at the adjustment amount.

The intermediate tax authorities attributed the entire adjustment to the International transactions undertaken by the taxpayer with its AEs, whereas taxpayer had earned revenue from both the AEs and Non-AEs. The intermediate tax bodies attributed the entire adjusted revenue less the actual Non-AEs sales towards the AE segment, and arrived at an adjustment which was more than the actual value of the total International transactions undertaken by the taxpayer with its AEs.

After analysing the contentions of both the sides, the Tax Court concluded that ALP adjustment should be computed only for the sales made to AEs and not to the sales made to AEs and Non-AEs. As a result, the case was settled in the favour of taxpayer.

Golden Source India Pvt. Ltd. – Mumbai ITAT

Outcome: In favour of taxpayer
Category: Working Capital Adjustment

The taxpayer is involved in providing software services including coding, integration and testing, to its AE only, i.e. taxpayer is a captive service provider. One of the issues in the taxpayer's case, inter alia, was regarding the issue of working capital adjustment.

The taxpayer, while benchmarking the international transaction with its AE had applied TNMM as the MAM and further made an adjustment to the arithmetic mean of the comparables on account of working capital difference. This was done since the average investment in working capital of the comparable companies was much more than that of the taxpayer. Thus, after working capital adjustment, the average margin of the comparables was computed by the taxpayer in the Transfer Pricing Documentation. Although the Dispute Resolution Panel remanded the matter with instructions to allow the working capital adjustment in the taxpayer's case, the tax officer did not heed to such adjustment and consequently disallowed the same.

The Tribunal noticed that it is fairly well settled that adjustment on account of working capital difference has to be allowed while computing the margin of the comparables, since, it is a relevant factor which influences the price and profitability. Thus, the Tribunal allowed the taxpayer's claim of adjustment on account of working capital difference and directed the tax authorities to compute the margin of the comparables accordingly.

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