

Kaybee Private Ltd – ITAT – Mumbai

Outcome: **Against** taxpayer

Category: Associated Enterprise (AE)

Tax Court upheld revenue's approach by considering Indian company as an AE of its Singapore entity as **their common director held 99.9 per cent in taxpayer's company and participated in their control, capital and management.**

Further, held that in above case, the conditions of Section 92A (1) being participation of one enterprise directly or indirectly in the control, capital and management are **'independently'** satisfied to be treated as an AE's. Referred that Section 92A(2) being a deeming fiction enlarges the scope and meaning of term AE as provided under section 92A(1).

Oceans Connect (I) Pvt Ltd – ITAT - Pune

Outcome: **In favour** of taxpayer

Category: Selection of comparables

Tax Court upheld taxpayer's contention that as the nature of services offered, size and verticals of all companies in independent situation differed, none of the company was selected as comparable out of the 6 companies identified.

Further, agreed with taxpayer's view that fraudulent company can't be chosen as comparable for transfer pricing study as its financial results were not considered as correct and reliable.

Recent News:

OECD establishes group for development of multilateral instrument to amend Double Tax Avoidance Agreement as per BEPS recommendations

The Base Erosion Profit Shifting (BEPS) Project sets out 15 actions, many of which cannot be tackled without amending bilateral tax treaties. Thus mandate was passed by OECD for setting up a group for development of multilateral instruments to modify bilateral tax treaties. As per the OECD mandate, the Group has been established wherein over 80 countries are participating.

International Taxation Updates

The following changes are effective from 01-June-2015 in relation to International Taxation

1. Form 15CA needs to be filled for all the transaction with non-resident. The details of transactions are highlighted as under:

(Import transactions, Credit card transactions, and transaction with Non-resident even if payment is made to an Indian Bank account, transactions related to Payment of Interest, Royalty and Fee for Technical Services Commission and Salary paid abroad).

If the relevant form is not filled or incorrectly filled, then the penalty of Rs. 100,000 can be levied on the taxpayers.

2. Simplified version for new Income Tax Return (ITR) forms introduced for residents and non-residents and it shall not mandate furnishing details of foreign trips in new forms.

3. An individual who is not an Indian citizen and is in India on business, employment or student visa would not mandatorily be required to report the foreign assets acquired by him during the previous year in which he was non-resident if no income is derived from the assets during relevant previous year.

4. Disclosure of all foreign assets including bank accounts is mandatory for all residents and ordinary residents.

Black Money Bill, 2015 Assented by President

The Black Money (Undisclosed Foreign Income and Assets) And Imposition of Act, 2015 No. 22 of 2015 received the assent of the President on 26th May, 2015.