

TransPrice Times

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Jabil Circuit India Pvt. Ltd. – Mumbai ITAT

Outcome: In favour of Taxpayer
Category: Intra-group services

Tax Court accepts taxpayer's adoption of cost allocation mechanism pertaining to intra-group services namely IT and non-IT services (corporate support, business development support, etc.) rendered and received by the taxpayer.

Taxpayer backed the cost allocation with a CPA certificate using various key factors like assets, revenue, no. of employees, etc.. Tax Court notes that allocation of costs using such factors is a well-accepted practice in international taxation. Furthermore, after going through the taxpayer's documents and supporting evidences, it was held that the cost allocation mechanism is in line with the OECD guidelines. Tax Court affirms reliance on CPA certificate which is specific and duly authenticated.

PepsiCo India Holdings Pvt. Ltd. – Delhi ITAT

Outcome: In favour of Taxpayer
Category: AMP as International Transaction

Tax Court rules on taxpayer's (full-fledged manufacture) Advertising, Marketing Promotion (AMP) expenditure holding that transfer pricing adjustment simply on the ground that taxpayer has spent AMP expenditure benefitting the brand/trademark of the Associated Enterprise (AE) would not be the correct approach.

Adjustment on international transaction of reimbursement of advertisement expenditure on cost by taxpayer for its Irish AE was deleted.

Observing the nature of transaction, Tax Court notes that the Irish AE acts as a legal title holder of trademark and has not charged royalty to taxpayer and since taxpayer operating in India reaps all the profits from India there would be no reason to compensate its AE for marketing activities. Tax Court holds arm's length determination to be confined to the reimbursement of cost and not to the entire AMP expenditure.

Laqshya Media Limited – Mumbai ITAT

Outcome: Against Taxpayer
Category: Nil ALP on Loan

Tax Court rejects use of Nil arm's length determination of loans granted by taxpayer to its AE for further lending to step-down subsidiaries. However, the AEs incurred huge losses due to which taxpayer made substantial provision in its books of accounts and did not accrue any interest against outstanding loan considering the loans as non-performing assets/stressed assets. Taxpayer relied on principles of commercial expediency and real income theory wherein hypothetical income never earned by taxpayer could not be taxed. Further, taxpayer argued that the same should not be considered as international transaction.

Tax Court rejects taxpayer's views stating that taxpayer advanced loan under loan agreements/arrangements to its AE and was entitled to rate of interest. Additionally, as long as the loan transaction is an international transaction the test of commercial expediency or notional income or revenue neutrality would fail.

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