

TransPrice Times

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Contata Solutions Pvt. Ltd. –

Delhi ITAT

Outcome: Against Taxpayer

Category: Functions, Assets and Risks ('FAR') Analysis

The taxpayer is engaged in the business of software development. It used the 'Transactional Net Margin Method' to benchmark its international transactions with its Associated Enterprises ('AEs'). While determining the Arms' Length Price ('ALP') of its international transactions, the Tax Court observes that the taxpayer did not document a FAR analysis in its Transfer Pricing study. Due to this, the Tax Court found it difficult to determine the nature of activities which the taxpayer performed. Even the risk profile of the taxpayer was unclear due to the absence of a FAR analysis.

Hence, the Tax Court directs the taxpayer to draft and submit its FAR analysis to the intermediate tax authorities on a priority basis and then proceed with the comparability analysis. Based on such analysis, the ALP of the international transactions under consideration would be determined.

TransPrice Comments:

The 'FAR' Analyses are considered to be the 'ABCs' of any benchmarking activity. Establishing a benchmark without a FAR analysis may have a potential of making the benchmark erroneous in nature. Taxpayers must aim at having a comprehensive FAR analysis in place before proceeding with the comparability analysis.

Agilent Technologies

(International) Pvt. Ltd. – Delhi

ITAT

Outcome: In favour of Taxpayer

Category: Inter-company receivables

The intermediate tax authorities re-characterised the overdue receivables from its AEs as a 'deemed loan' and treated it as a separate international transaction. An adjustment in the nature of notional interest on such outstanding receivables was therefore proposed by the intermediate tax authorities on an ad-hoc basis.

Highlighting the fact that working capital adjustment was already accepted, the taxpayer contended that the impact of outstanding receivables on its profitability gets taken care of in such an adjustment and hence, no separate adjustment is justified in respect of overdue receivables from the AEs.

After analysing the contentions of both the sides, the Tax Court upholds the contentions put forward by the taxpayer. As a result, the Tax Courts concludes the case in favour of the taxpayer.

RECENT NEWS

The CBDT postpones reporting requirements of GAAR and GST till 31st March 2020 in the income-tax audit report:

In July 2018, the Indian Central Board of Direct Taxes ('CBDT') prescribed additional reporting requirements in relation to General Anti-Avoidance Rules ('GAAR') and Goods and Services Tax ('GST') in the income-tax audit report i.e. Form No. 3CD. Earlier, the CBDT had deferred its applicability till 31st March 2019. However, after receiving representations from the stakeholders, the CBDT, [via Circular No. 9/2019 dated 14th May 2019](#), has further deferred its applicability till 31st March 2020.

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