

TransPrice Times

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Tudor India Private Limited –

Gujarat – High Court

Outcome: In favour of Taxpayer

Category: Income Escaping Assessment

Taxpayer challenged the validity of the notice (dated 04-12-2017) which was served to it under Section 148 of the Income-tax Act, 1961 ('the Act') by filing a writ petition. The notice was pertaining to Assessment Year ('AY') 2011-12. It was contended that all the details and material facts were duly disclosed by the taxpayer during the assessment proceedings for the concerned AY. Also, in the earlier years, taxpayer's case for AY 2011-12 was concluded under a scrutiny assessment as per Section 143 of the Act.

Furthermore, the taxpayer drew attention to proviso of Section 147 of the Act wherein it is mentioned that in a case where scrutiny assessment has already taken place under Section 143 of the Act and there is no failure in disclosing full and true material facts; no income escaping assessments would be carried out by tax authorities after expiry of four years from the end of the concerned AY. According to the taxpayer, the period of four years had already lapsed and there were no failures in any disclosures of facts or information for the concerned AY. After perusal of the entire case, the Gujarat High Court agreed with the taxpayer's argument and allowed the petition. Hence, the notice u/s 148 stands quashed.

Lehman Brothers Securities

Private Limited – Mumbai ITAT

Outcome: In favour of Taxpayer

Category: Most Appropriate Method

For the investment banking division, the taxpayer had adopted 'Profit Split Method' ('PSM') as the Most Appropriate Method ('MAM') in its Transfer Pricing study. PSM was adopted in view of the global Transfer Pricing policy of the Lehman Brothers Group. The intermediate tax authorities rejected PSM and selected 'Transactional Net Margin Method' ('TNMM') for the purpose of benchmarking.

The taxpayer made an appeal to the Tax Court and requested for another opportunity so that it could substantiate the adoption of PSM instead of TNMM as the MAM. Owing to the collapse of Lehman Brothers Group, the taxpayer has been facing difficulties in collating information and preparing for the hearings. The Tax Court accepts taxpayer's plea and restores the issue of ALP determination as well as selection of MAM to the file of the intermediate tax authorities by giving another opportunity.

RECENT NEWS

Assurance given to 'Genuine Start-ups' by the Indian Finance Ministry in case of 'Angel Tax'

In recent times, 'Angel Tax' has garnered attention from almost all the stakeholders of the Indian economy. While addressing the Parliament on 11th February 2019, the Hon'ble Interim Finance Minister of India – Mr. Piyush Goyal, affirmed that the Indian government is taking stringent measures to prevent tax evasion by 'bogus companies' through the Angel Tax provisions. However, at the same time, the Ministry is also assuring that genuine start-ups do not bear the brunt of such provisions. To know more about 'Angel Tax', click [here](#).

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