

TransPrice Times

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Michelin India Tyres Pvt. Ltd. – Delhi ITAT

Outcome: In favour of Taxpayer
Category: Commercial Expediency

Tax Court rejects intermediary authorities' nil arm's length price adjustment regarding the payment of technical services to Associated Enterprise (AE) for an aborted project on the premise that no income arose to the taxpayer from the payment made for technical services.

Taxpayer availed technical assistance from its AE for its own manufacturing operations. However, there was no manufacturing activity as the operations were removed due to termination of a JV agreement with Apollo Tyres who was a key participant in determining price for technical services availed from taxpayer's group companies worldwide. The tax authorities viewed that the taxpayer was making payment of technical service fee for which no benefit arose. Accordingly, the tax authorities opined that the payment of technical know-how service does not commensurate with income test. Taxpayer argued that absence of direct income attributable to expenditure is hardly a test for determining arm's length price.

Tax Court accepts taxpayer's argument and holds expenditure on technical fees as revenue expenditure even though the manufacturing activity has been discontinued. Accordingly, deduction is allowed to taxpayer.

RHL India Services P. Ltd. – Bangalore ITAT

Outcome: Against Taxpayer
Category: Intra-group services

Tax Court upholds transfer pricing adjustment on intra-group payments by taxpayer to its holding company & rejects claim that the services were rendered by the holding company.

Taxpayer is engaged in the business of freight forwarding. The holding company has a global network with agencies in different locations who procure orders from customers to and from India. For the services, taxpayer paid franchise commission to the holding company.

Tax Court holds that mere explanation of process and placement of holding company does not establish services were rendered from holding company. Further, rejects various evidences submitted by taxpayer and opines that consignment details without holding company's involvement or agreements between taxpayer and holding company for services, is not sufficient to discharge the burden that lies on the taxpayer.

Piramal Glass Ltd – Mumbai ITAT

Outcome: Against Taxpayer
Category: Outstanding AE receivables

Tax Court directs the matter to the lower authorities to add adjustment on interest on AE receivables outstanding for more than 1 year.

Taxpayer had outstanding receivables of sales/technical fees which was higher than its income in the year under consideration. Tax Court opined that the outstanding receivables could be benchmarked by comparing credit period allowed by taxpayer for other receivables i.e. an internal comparable.

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