

Everest Kanto Cylinders Ltd – High Court (HC) – Mumbai

Outcome: In favour of taxpayer

Category: Corporate guarantees

In the matter of guarantee commission, Hon'ble HC upheld the contention of taxpayer that the **considerations applied for issuance of corporate guarantee are distinct and separate from that of the bank guarantee and therefore the comparison was not between like transactions for determination of arm's length price.**

Further, Hon'ble HC deleted the adjustment carried by TPO on the ground that comparison was restricted to commercial banks providing guarantees and it did not contemplate the issue of Corporate Guarantee.

Amba Research India Pvt Ltd – ITAT - Bangalore

Outcome: In favour of taxpayer

Category: Foreign Exchange Gain

Tax Court upheld taxpayer's contention that the foreign exchange gain arose as a consequence of the realisation of consideration for rendering services and therefore there was no reason for its exclusion from operating revenues for the purpose of calculation of operating margins.

Further, reference was made to the co-ordinate bench ruling in **Mindteck (India) Ltd** whereby Tax Court held that operating revenue should be computed by including the foreign exchange gain.

Innodata Isogen India Pvt Ltd – ITAT - Delhi

Outcome: In favour of taxpayer

Category: Capacity utilization Adjustment

Tax Court agreed with taxpayer's view that despite revenues being low it had to retain skilled technical manpower, incur fixed cost on

rentals, electricity and depreciation on computers and infrastructure which resulted in idle capacity of fixed cost.

On the above reasonable ground, Tax court upheld taxpayer's view for reduction of idle fixed expenses from the total operating expense for calculation of profit level indicators and deleted the addition carried by TPO.

Recent News:

Lok Sabha passed stringent law to unearth black money stashed abroad

Lok Sabha unanimously passes Black Money bill with over substantial amendments. The key facts of Black Money bill are:

1. The bill will apply to Indian citizens and seeks to replace the Income-tax Act, 1961 for taxation of foreign income.
2. It penalizes the concealment of foreign income and provides for criminal liability for attempting to evade tax in relation to foreign income.

Further, India and other G-20 members have committed to a global framework on automatic information exchange. It will also receive information on assets held by its citizen from the US under Foreign Account Tax Compliance Act (FATCA).

Government retains 51 per cent FDI in multi brand retail

The Department of Industrial Policy and Promotion (DIPP) issued consolidated FDI policy document retaining the policy on FDI in multi brand retail that allows up to 51 per cent foreign investment. The consolidated FDI circular incorporated the changes made in last one year including liberalisation of sectors such as insurance, defence, medical etc.