

## KPIT Cummins Infisystems Limited - ITAT - Punjab

**Outcome:** In favour of taxpayer  
**Category:** Interest benchmarking

ITAT rejects adoption of Bank's Prime Lending Rate (BPLR) for benchmarking of interest receivable for the loans provided to the AEs. Held that where the transaction of loan with the foreign company is in foreign currency, the same has to be computed based on the foreign inter-bank rate, as was adopted originally by the taxpayer.

## RMSI Pvt Limited – ITAT - Delhi

**Outcome:** In favour of taxpayer  
**Category:** Certified segmental

The taxpayer provided software development services to AE and Non AEs. ITAT accepts additional evidence in the form of segmental analysis, certified by an external accountant, and compared the net profitability of both the segment to hold the AE segment at ALP

## JCB India Limited – ITAT - Delhi

**Outcome:** In favour of taxpayer  
**Category:** Valuation in TP v. Allowability

Section 37(1) of the Income-tax Act, deals with allowability of general business expenditure to the company. The tax court held that an expenditure (royalty) cannot be disallowed under two different provisions of the Act. The tax court set aside TPO/DRP order that computed royalty at 'zero' value, which concludes that no benefit accrues to the taxpayer through the licensed intangibles. Further, the tax court explains that a TPO may find a particular transaction in order and at ALP, however the tax officer can make disallowance considering the applicability of Section 37(1). Also the tax court hold that CUP method would be the most appropriate method to benchmark royalty and is preferred over TNMM.

## Recent News:

### India Adopts Action point 13- CbCR Reporting

India has shown its commitment to the BEPS project by the OECD, by announcing the three-tiered approach of transfer pricing reporting i.e. master file, local file and CbCR.

The documentation approach in the Indian legislation is broadly in line with the proposal provided by the BEPS action plan. The objective of the documentation is to provide the world-wide tax administrations with useful information to assess transfer pricing risks to target tax avoidance in all forms through effective information exchange.

CbCR in India should include, financial information including profit before taxes, income-taxes paid, accumulated earnings, number of employees and tangible assets, with regard to each territory in which group operates. Further, the Master File should consist of information such as high-level overview of MNE group, its global businesses and its transfer pricing policies.

The three-tiered structure including the CbCR has been proposed to be applicable in India from financial year 2016-17, if the group revenue as on 31 March 2016 exceeds the threshold limit of Euro 750 million. CbCR must be furnished annually on or before the due date of filing of return of income. Accordingly, the first set of CbCR is expected to be filed by November 2017.

Finance Bill, 2016 proposes penalties specifically for non-compliance with CbCR provisions. Penalty for failure to furnish the Master file and penalty for furnishing inaccurate particulars in the CbCR (subject to certain conditions) is prescribed at Rs 5,00,000 each. Further, penalty is also proposed to be levied for failure to submit CbCR by the prescribed date.

CbCR provides tax authorities with a greater access to information and transparency about the MNE's business. Therefore, it is important for the MNEs functioning in the country to align its Functions, Assets and Risks to the economic value creation.