

TransPrice Times

Special Edition - Part I (Transfer Pricing)



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A cousin in London wanted send some Mangoes and see what it led to...!!! (Part 1: Transfer pricing)

Suresh has a thriving business of exporting agri-products to various countries. His vegetables and fruits are well known amongst a lot of stores in various different countries. His business was doing very well for itself until last year.

Then one day, his cousin, Mohan came over from U.K. on a trip to India. He was born and brought up in U.K. He had heard a lot about Indian fruits and was especially fond of Mangoes. On his way back, Suresh ended up gifting him a box of mangoes. He cherished them a lot.

Suddenly, one day Mohan had an idea as to why not sell these mangoes in his country. As such, Suresh was an exporter. All he had to do was to send some containers to Mohan. He called up Suresh and Suresh was also excited about the idea.

So everything was planned. Since Mohan was just starting up, Suresh insisted on supplying mangoes without making any profit for himself. As such he was of a helping nature and was doing well for himself. Mohan objected at first, but later on he also agreed and thought that once I am established, I will make it up for Suresh.

Ecstatically, he went around the city and collected orders for rare, sweetest, Indian Alphanso Mango. All the local stores were more than happy to stock them, especially when they were getting at an unimaginable low price. Mohan kept very minimal margin, only to cover his costs for gaining market share initially. And when the orders reached to a size, Mohan placed his first order to Suresh, five containers of sweet alphanso mangoes.

Slowly Mohan's business started to pick up. He became a well-known figure in the fruit circuits of not just U.K but entire Euro area. Suresh also was very happy because for a little lower margin, entire headache of supply chain was gone and his payments were virtually secure. The only one person who was seemingly not happy with this great success story of Suresh and Mohan, was Suresh's CA. He was constantly telling him that what Suresh was doing was not proper. Suresh ignored him.

All was going well, until one day when Suresh got a notice from "Transfer-Pricing" team of income tax department. In no time, Suresh was made to appear before the TPO (Transfer Pricing Officer) and was grilled with tough questions.

- 1) Who is Mohan?
- 2) Why is he given a substantially lower price than other customers?
- 3) As per OECD guidelines and the new BEPS provisions, you have violated several international laws?
- 4) Are you aware, that you can be fined and also subject to enquiry under economic offences?

It made no sense to Suresh, as to why he was questioned or where did he go wrong? According to him, whatever he did, was legitimate business. He made profits in mangoes later sold to Mohan and reported it. He also paid legitimate taxes on the same. He was completely taken aback by the unfolding of events. He was contemplating to cut off his business with Mohan altogether, with the amount of harassment increasing from the TPO day by day.

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Once he started doing research, he found, that he was not alone. Even large companies with multi-national presence were victims of this draconian “transfer pricing” law. On reading, that almost 70 % of global litigation on “transfer pricing” happens in India, he was shocked. He finally called up his CA, who was warning him from quite some time, to understand, as to what went wrong in the first place?

Do you believe, that what Suresh and Mohan were doing, was wrong or illegal?

Aren't two cousins supposed to trade with each other?

Why would Suresh charge market price to Mohan? Mohan was a family, right?

What difference does it make to the government, that they are poking their nose in the business of two brothers?

If you have questions like these in your mind or you are involved in doing business with your related parties, both domestic as well as international, or if you have holding companies, subsidiaries or branches abroad, you may end up like Suresh.

Kindly write to us for the answers you seek akshaykenkre@transprice.in



Contact Us!

CA. Akshay Kenkre
Managing Partner
TransPrice Solutions LLP

Mobile : + 91 9819245424
Email : akshaykenkre@transprice.in
info@transprice.in



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