

Danisco (India) Pvt Ltd – ITAT - Delhi

Decision Outcome: In favour of the taxpayer

Category: Application of Resale Price Method ('RPM')

Summary of decision:

- Taxpayer, engaged in the business of manufacturing food flavors, imported raw material from its Associated Enterprises ('AEs') for use in the process of manufacturing as well as trading by reselling the same to buyers in India through its distribution chain
- Taxpayer adopted Transactional Net Margin Method ('TNMM') to benchmark its international transactions as regards manufacturing and RPM for its trading activities with AE
- Tax authorities rejected the comparables selected by taxpayer
- Furthermore, tax authorities also rejected segmental accounts furnished by taxpayer to examine trading and manufacturing activities separately and selected comparables engaged only in manufacturing activities
- On appeal by taxpayer, Tax Court observed RPM to be the most appropriate in case of no value addition on goods and directed tax authorities to apply it for benchmarking trading activities, whereas TNMM to be applied for import of raw material for manufacturing only after considering segmental data
- Tax authorities were directed to allow appropriate economic adjustment for compensating the difference in administrative expenses between the taxpayer and the comparables
- Tax court restored the issue for fresh adjudication

Avineon India Pvt Ltd – ITAT - Hyderabad

Decision Outcome: In favour of the taxpayer

Category: Admissibility of working capital adjustments for suitable comparability

Summary of decision:

- Taxpayer, engaged in providing IT enabled services and IT enabled engineering services, entered into international transactions with its AE for which it selected TNMM as the most appropriate method to benchmark its transactions
- Tax authorities rejected taxpayer's comparables and selected fresh comparables consequently resulting in addition to the income
- On appeal by taxpayer, Tax Court not only rejected comparables selected by tax authorities but also dismissed their conclusion that in absence of articulate reasons reworking of working capital adjustment could not be allowed
- Tax Court sustained taxpayer's contention that trade practice of advances and subsequent adjustment of these advances against invoices raised, being a captive service provider, had a bearing on profit margin and therefore, working capital requirement should be taken care of by way of adjustments
- Tax Court restored the subject back to the tax authority to examine whether similar conditions exist for other comparables and accordingly compute the appropriate working capital adjustment