

## Cheil India Pvt. Ltd – ITAT- Delhi

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**Decision Outcome: Against taxpayer**

**Category: Interest on outstanding receivables**

### Summary of decision:

- The taxpayer is engaged in the business of advertising, communications, publicity and merchandise, including marketing research , planning and providing consultancy services deriving commission income
- The TPO noticed that substantial amounts were due to the taxpayer from its AEs and there were delays in receiving the payment
- The TPO treated the delayed payments from the AE as unsecured loans
- The TPO treated the AE in to category rating of "BB" through the data procured from CRISIL and benchmarked using CUP method by taking the interest rate at 17.22% to be an arm's length interest rate
- The DRP upheld the adjustment and confirmed that any outstanding beyond a period of 30 days was to be held as a subject matter for an adjustment

The Tax Court held as follows:

- Delay beyond stipulated period in recovery of dues is an international transaction with AE
- The taxpayer did not bring any material on record for any similar uncontrolled transactions to show that no interest has been charged
- Hence, the adjustment proposed by the DRP and TPO is upheld

## Bausch & Lomb Eyecare (India) P. Ltd – ITAT -Delhi

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**Decision Outcome: In favour of the taxpayer**

**Category: Interest on outstanding receivables**

- The taxpayer is engaged in the manufacturing, distribution of vision care products and surgical equipment's
- The TPO treated amount outstanding from AE which was not received in stipulated time as unsecured loan and imputed interest at 15.77%
- The TPO used average lending rates of SBI plus 300 basis points towards various risks
- The taxpayer contented that since no interest was charged on outstanding receivable from unrelated party, there was no need to charge such interest to AE under the arm's length consideration
- The Tax Court (ITAT) observed that the taxpayer demonstrated that as a policy it does not charge interest on outstanding balances to any party whether AE or non AE
- Relying on the guidance available in the OECD guidelines and placing reliance on rulings in the case of Indo American Jewellery, Lintas India and Mastek Limited , the tax court deleted TP adjustment regarding the notional interest on outstanding from AEs

**TransPrice's Comments:**

Policy document are the most important to understand price setting mechanism. Although the issues being similar and both before the same Tribunal in Delhi, the outcomes are different as in the case of later the taxpayer had maintained clear policy document highlighting the situation of non-payment of interest in case of unrelated party. However in the first case as the taxpayer was not able to produce any document to prove non chargeability of interest in independent situation.