

Advance Power Display Systems Ltd – ITAT - Mumbai

Decision Outcome: In favour of the taxpayer

Category: Capacity utilisation adjustment in case of under-utilisation of installed/licenced capacity

Summary of decision:

- Fixed overheads remain static irrespective of variation in sales volume and subsequently under utilisation of capacity results into over allocation of fixed overheads
- Difference in level of capacity utilization of tax payer and comparables materially affects the profit margin of tax payer
- Principle is laid down in case of Petro Araldite Pvt Ltd wherein held that “where there is difference in level of capacity utilisation of tax payer and comparables, adjustment is required to be made to the profit margin of comparables as per Rule 10-B(1)(eiii) of Income-tax Rules
- The case is remanded back to the TPO to verify and consider the ratio as well as principle laid down in the abovementioned case