

Dania Oro Jewellery P. LTD – ITAT, Mumbai

Decision Outcome: **Partly allowed to the taxpayer**

Category: Interest in outstanding receivables

Background:

- Whether on the sales transactions made to the Associated Enterprise ('AE'), interest can be charged on the delayed payment which has exceeded the credit period.

The ITAT observed that:

- The taxpayer's main contention was that in case of Non AE, it has not charged any interest on delayed payments by Non AE and hence the same can be compared to non-charging of interest to AE
- Taxpayer undertook 215 transactions with AE and 11 transactions with Non AE. The terms of credit with AE ranged from 115-145 days. It was observed that in most of the transactions the payment was overdue. In some cases the terms of credit have been extended beyond 700 days and in some such period has gone above 1200 days. In contrast to that of Non AE, where the maximum delay is of 203 days.
- Under these circumstances one cannot conclude that there is a direct comparison with AE and Non AE and hence an adjustment is warranted.
- It was upheld that interest needs to be charged on the outstanding amount of receivable above 200 days, i.e. in excess of terms of credit for Non AEs
- The tax authorities were directed to apply a rate of LIBOR + 1.5% interest on such outstanding debtors above 200 days.

TransPrice Comments:

It is important to ensure that the receivables from Associated Enterprises are settled within the credit period. Also, the same should adhere to credit policy implemented by the company. Further, in any case if there is any outstanding receivable from the Associated Enterprise due to unavoidable circumstances, it is advisable to create appropriate documentation giving out clear reasons for such delay.