

Net Freight (India) Pvt Ltd – ITAT - Delhi

Decision Outcome: **Against** the taxpayer

Category: **Application of Profit Split Method ('PSM')**

Summary of decision:

- Taxpayer and its Associated Enterprises ('AEs') provided freight handling services, acting as each other's exclusive agents and they had an arrangement of profit sharing ratio ('PSR') of 50% for such collaborated services related to inbound and outbound shipments
- Taxpayer adopted Residual Profit Split Method to determine ALP of above transaction
- Primary level tax authority rejected PSM adopted by taxpayer stating there was insufficient evidence to justify appropriateness of 50% PSR and applied TNMM resulting in addition to taxpayer's income
- Tax Court held PSM as most appropriate method stating that benchmarking in case of residual PSM should be done with reliable external market data at the first stage where combined net profits are partially allocated to each entity so as to provide it with an appropriate return keeping in mind nature of transaction and residual profits be split as per relative contribution of AEs
- Tax court also held that at the above stage of splitting residuary profits benchmarking is not necessary as it is impracticable, but a scientific method be adopted to arrive at the same
 - Tax court set aside the issue for fresh adjudication