

## Social Media India Limited- ITAT Hyderabad

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

**Category:** Classification of transaction and valuation

The taxpayer purchased a web portal (intangible) vis. [www.bharatstudent.com](http://www.bharatstudent.com) for Rs 3.67 crores, which was capitalized in the books of accounts and depreciated at 25% on the value. Taxpayer supported the Arms Length Price (ALP) with valuation from an independent valuer to prove the arms length nature of the transaction. ITAT held that the TPO can challenge the ALP but could not question the business decision on purchase of the intangible. Hence, as the taxpayer proved that the transaction was ALP and there was no impact on P&L for the total amount, no adjustment warranted. The depreciation on the intangible was allowed as a tax deductible expense.

**TransPrice Comments:** Judgment brings out following points:

- Intangible assets having no direct impact on P&L needs to be tested for ALP
- Purchase of intangible is a business decision, TPO cannot challenge the same if the ALP is proved. TPO can question the ALP computation or methodology
- Importance of categorization of a transaction as capital and revenue transaction

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## Cadila Healthcare Limited– ITAT Ahmadabad

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

**Category: Classification of transaction/ Interest free loan**

- Cadila (India) subscribed to Optionally Convertible Loan (OCL) at USD 270 crores issued by Zydus International (Ireland)
- **Terms of Agreement:** Option to convert the loan in to equity within first 5 years. If the subscribed loan amount is not converted in to equity then interest accrued at LIBOR plus 290 basis points, computed at annual rates and payable at maturity ( that is 5 years from the date of disbursement of the loan amount)
- TPO computed the income ( interest on loan) that needed to be earned by the taxpayer in the first year and proposed an adjustment
- Taxpayer contentions were that as per the terms of agreement income would be accrued in nature of interest only if the loan has been not been optionally converted in to equity at the end of 5 years and hence no interest is accrued or received in the first year
- The funds were subscribed and deployed as per RBI guidelines
- In the next year of such issue, the OCL were converted in to equity
- Held that there is a difference between interest free loan and OCL
- The ITAT accepted the contentions of the taxpayer and gave a decision in favour