

LG Electronics India Pvt Ltd- ITAT Delhi

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

Category: Marketing Intangible and Cost Contribution

Pertains to AY 2004-05: Two main issues:

1. Contribution towards global sponsorship of ICC World Cup Cricket Tournament
2. Reimbursement of Advertisement (AMP) expenses by AE

1. Contribution towards global sponsorship

- LG India and LG Korea shared the sponsorship cost of ICC world cup in 40:60 ratio respectively
- Tribunal upheld the above mentioned ratio which was based on the percentage of **total sales of cricket playing nations** to **total sales of non cricket playing nations** namely **41.33%**
- Hence, it was held that the cost contribution percentage is justified

2. Reimbursement of AMP:

The Tribunal ruled to follow the Special Bench (SB) ruling in the taxpayer's own case. The SB had observed that disproportionate higher advertisement expenditure per se cannot justify AMP adjustment unless brand promotion is proven and exist.

TransPrice Comments:

It is important to follow a consistent and rational ratio/ basis for cost contribution arrangements; and more importantly documents such basis

Crest Animation Studios Ltd- ITAT Mumbai

Decision Outcome: In favour of the taxpayer

Category: Interest free loan

- Interest free loan provided by Indian Parent Company to Subsidiary
- TPO compared the interest rates charged by the parent for the loan given to other Associated Enterprises (AEs)
- The taxpayer argued that no interest was charged, as loan was advanced for commercial expediency; such loan was provided from own funds and not borrowed funds
- Tribunal agreed that commercial expediency is not a relevant factor for making Transfer Pricing adjustment
- However, the comparables selected by the TPO are controlled transactions and fails the applicability of CUP method.
- ITAT quashed the TP adjustment made by the TPO holding that the transactions was not based on any prescribed method (i.e for want of uncontrolled transaction)

TransPrice Comments:

It has to be understood that interest free loans made to Associated enterprises are liable for transfer pricing adjustment, but as the TPO was not able to substantiate the adjustment in light with the method prescribed the same was rejected.