

Woco Motherson Advanced Rubber Technologies Ltd – ITAT – Rajkot

Outcome: In favour of taxpayer
Category: Technical fees payment

International transaction of payment of technical service fee to Sharjah, was considered as NIL by the revenue, due to a low tax regime in the recipient country.

Tax Court upholds that an AE being located in a tax haven requires benchmarking analysis to be conducted of transactions at arm's length irrespective of whether it is situated in a highly taxed or lowly taxed territory. More over the source based taxes in terms of withholding taxes remain the same irrespective of the country of receipt of payment.

Taxpayer charges a mark-up of 10% on cost, and is a captive service provider for its AE. Therefore, as taxpayer provides services directly to AE and charges margin, the same results in rendering of services with value addition, which cannot be a considered as a pass-through cost.

Magneti Marelli Powertrain India Pvt Ltd – HC – Delhi

Outcome: Against taxpayer
Category: Technical fees payment

Taxpayer pays technical fees, over and above the royalty charge, to its overseas AE which was benchmarked by relying on profit appropriateness in future.

Hon. High Court overrules taxpayer's views on benchmarking such technical fees, where the evidence was based on 'subsequent/ projected profits' instead of 'actual profits'.

SAS Research & Development (India) Pvt Ltd – ITAT – Pune

Outcome: In favour of taxpayer
Category: Independent benchmarking

The Tax Court upholds taxpayer's contention and rejects practise of combined benchmarking of off-shore software development and on-site software consultancy services provided to its AE.

Further, contends that use of same set of comparables by taxpayer does not mean it shall be subject to combined benchmarking.

Applied Materials India Pvt Ltd – ITAT – Bangalore

Outcome: In favour of taxpayer
Category: Pass through treatment

A pass-through cost is identified when there is no value addition to activities involved in services provided to AE.

Accordingly, Tax court rejects taxpayer's treatment of sub-contracting charges as pass through cost while providing services to its AE.

Synovate India Pvt Ltd – ITAT – Mumbai

Outcome: In favour of taxpayer
Category: Characterization

The Tax Court provides distinction between characterization of market research and ITES services.

Ruling in favour of taxpayer, Tax Court characterizes taxpayer as marketing research service provider on basis of output derived from collecting, collating and analysing of information / data.

Accordingly, as taxpayer's activities were not substantially inclined towards use of technology on the part of human resources, it shall not be characterized as ITES.

In News:

SLP in Maruti Suzuki AMP-case listed before SC on November 22