

Cases:

SAS Research & Development (I) P Ltd – ITAT – Pune

Outcome: **Against** taxpayer

Category: Combined vs. transactional approach

Tax Court upholds that when the two business segments/ models are different in terms of functions, assets and risks, the two segments need to be benchmarked separately even if the comparables are same/ similar. Upholds the turnover filter of INR 200 crores for benchmarking

Schneider Electric (I) Pvt. Ltd – ITAT – Del

Outcome: **In favour** of taxpayer

Category: Combined vs. transactional approach

Tax court rules against use of combined approach by the TPO to determine the ALP. Remits with a direction to compute profitability of manufacturing, trading and R&D activity separately.

Everest Kanto Cylinder- ITAT- Mumbai

Outcome: **In favour** of taxpayer

Category: Corporate guarantees and interest

Tax court deletes corporate guarantee adjustment (determined by TPO at 3%) for the guarantees provided to AEs in China and USA. Relies decision in its own case for the earlier years.

Tax Court also rejects TPO's determination of interest rate ALP at 9.55% in respect to loans advanced to Dubai and China AEs. Upholds the interest ALP at Libor + 2%

Open Silicon Research Private Ltd.

Outcome: **In favour** of taxpayer

Category: RPT Filter

The Tax Court remits back for fresh determination of ALP by applying 15% RPT filter instead of 0% as applied by the TPO.

Recent News and updates:

Advance Pricing Agreement: 5 more Unilateral APA signed

CBDT signs 5 unilateral APAs with Indian taxpayers, takes total APA tally to 108. Signed APAs cover host of transactions including sale of finished goods, purchase of raw materials, Software development services, IT enables services, exports and interest payments.

BEPS update:

OECD releases key documents approved by the inclusive framework on BEPS, that will form the basis of Mutual Agreement Procedure (MAP) peer review and monitoring process under BEPS Action 14 (making Dispute Resolution mechanisms more effective)

China SAT: recommends PSM where significant marketing intangibles, location savings identified

China SAT presents paper titled 'China Country practices' at the twelfth session of UN Committee of Experts on International Cooperation in Tax Matters. Highlights application of ALP as a practical challenge in developing countries in view of lack of appropriate comparables, qualifications and allocations of location specific advantages identification and valuation of intangibles for which solutions are not readily available in OECD TP Guidelines.

Revised Guidance note on Section 92E - ICAI

ICAI releases revised guidance note on certification under section 92E. Incorporates significant developments in law since earlier edition released in August 2013. Such developments include safe harbour rules, provision for roll back of APAs, introduction of range concept and use of multiple year data, three tier documentation structure, increased threshold limit for applicability of specified domestic transaction.