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Maruti Suzuki India Ltd – ITAT - Delhi

Outcome: In favour of Taxpayer
Category: Marketing Intangible

With respect of Advertising, Marketing and Promotion expenses (AMP) adjustment, Tax court agreed with taxpayer's contention that TPO was not correct in following **Special Bench** (SB) decision of **LG Electronics** for determining Arm's Length Price (ALP) as the SB order has been subsequently modified by Hon'ble Delhi High Court.

Taxpayer being a **'manufacturer'**, the Tax court restored the file back to the TPO's with following directions:

- **Follow the parts of Sony Ericsson High Court judgement that are common to both Manufacturers and Distributors**
- **Apply the part of judgement as applicable to 'manufacturer'**
- **Ignore the parts of judgement which pertain exclusively to 'Distributor'**

Mitsui & Co India Pvt Ltd – ITAT - Delhi

Outcome: In favour of taxpayer
Category: Re-characterization of Services

The Tax Court upheld taxpayer's view that the activities of indenting services and trading are completely different and thereby rejected the TPO's contention in re-characterizing support services (intending transactions) as trading activity.

Further, tax court held that trading activities were insignificant as compared to activities of support services which constituted the core business activity of taxpayer's business.

Reference was placed on plethora of decisions such as **Sojitz India, Li and Fung India, Mitsubishi Corporation India wherein it was held that Tax officer was not justified in re-characterising transaction as trading transaction.**

Haier Appliances India Pvt. Ltd – High Court - Delhi

Outcome: In favour of taxpayer
Category: Penalty for non-disclosure

Reasonable cause due to requirements of tax law at relevant point in time, for non-disclosure of transaction of reimbursement of subsidy received from Associated Enterprise in relation to Advertisement, Marketing and Promotion expenses is a bonafied belief and hence no penalty under Section 271AA of the Act is attracted.

Recent News

FDI inflow up by 54% in FY15

The Reserve Bank of India (RBI) in its annual report for the financial year (FY) 2014-15, released that the aggregate FDI received has increased by 54% to $24.7 billion from $16 billion in the year 2013-14.

The manufacturing sector was the largest beneficiary as the total FDI increased to $9.6 billion which accounted for a total of 38% received. Mauritius was the country from which maximum FDI inflow was received i.e. 45% of the total FDI accounted. This is the highest FDI received in the last 5 years and reflects the warm response the government's "Make in India" initiative has received.

Outflow from developing nations – Matter of Concern

The Minister of State for Finance Jayant Sinha said that illicit capital outflows from developing nations including India have been estimated at USD 300-600 billion. The illicit capital is basically the black money which is being sent to tax havens via trade based money laundering, over and under invoicing.

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