

## Marubeni Itochu Steel India Pvt Ltd – ITAT - Delhi

**Outcome:** In favour of taxpayer

**Category:** Berry Ratio

Tax Court upheld the use of Berry Ratio (Gross Profit/Operating Expenses) as an appropriate Profit Level Indicator (PLI) to benchmark the Arm's Length Price (ALP) for indenting and steel transactions of taxpayer, being part of Sogo Shosha establishment (a Japanese expression for general trading companies).

Further, Tax Court upheld tax payer's view that Berry Ratio did not violate Rule 10B.

Reference was placed on the decision of **Mitsubishi Corporation India Pvt Ltd** which elaborated the peculiarities of 'Sogo Shosha' companies and upheld the use of berry ratio.

## Aegis Limited – ITAT - Mumbai

**Outcome:** In favour of taxpayer

**Category:** Re-characterization of shares

Tax Court upheld taxpayer's contention that **TPO cannot re-characterize the subscription of preference shares as advancement of unsecured loan by terming it as exceptional item and also cannot question the commercial expediency of the transactions.**

Further, Tax Court deleted the adjustment made by TPO and held that subscription of share cannot be characterised as loan and therefore no interest should be imputed.

## Panasonic Consumer India Pvt Ltd – ITAT-Delhi

**Outcome:** In favour of taxpayer

**Category:** Marketing Intangibles

The Tax Court agreed with the taxpayer's contention that marketing and selling expenses like trade discount etc. are not Advertisement, Marketing and Promotion (AMP) expenses.

Further, Tax Court held that there was no justification to examine AMP expense on

standalone basis, so long as in the closely-linked transaction, margins of taxpayer are at arm's length with that of comparable.

On the above reasonable ground, Tax Court set aside the matter to tax officer to decide afresh as to whether local transactions of advertisement, cash discount with unrelated party was an international transaction and if so to make transfer pricing adjustment in accordance with the ratio laid down by Hon'ble High Court in the case of **Sony Ericsson Mobile Communication India (P) Ltd.**

## Recent News

### Fast tracking Mutual Agreement Procedure (MAP) with Japan

India signs MAP with Japan to resolve transfer pricing dispute of large company in the manufacturing sector. Signing of MAP with positive results in such a short span of time with major trade partner like Japan will encourage more taxpayers to opt for the bilateral route.

### Central Information Commission (CIC) directs Revenue to furnish Advance Pricing Agreement (APA) info

CIC directs Income tax department to provide categorical information on certain issues pertaining to APA's in response to Right to Information (RTI) application filed. CBDT had declined to provide information on all 10 issues raised in RTI application. However CIC allows information to be provided on 3 out of 10 issues. CIC directs disclosure of following information: **estimated amount of transactions to which APA pertains, functional currency recognised for the proposed transaction under each APA, and annual tax revenue likely to be earned by CBDT as a result of entering into each APA.**