

## Chryscapital Investment Advisors (India) Pvt Ltd – High Court (HC) – Delhi

**Outcome:** In favour of Revenue

**Category:** Multiple year data

Hon'ble HC upheld TPO's contention to examine relevant year's data for reaching out comparables. Further, held that the TPO's decision was in consonance with Rule 10B (4) and further laid that the data for earlier period may be considered only if reveals certain facts which have influence on the determination of transfer prices in relation to transaction being considered. Further, recommended that OECD guidelines had no bearing on the above issue.

Reference was placed on **Marubeni India (P) Ltd v/s DIT** for applicability of previous year's data for reaching out comparables.

Further, tax court accepted TPO's contention that the position of 'Bodhtree' was such that it did not comply with the significant accounting policy of properly matching its expense with revenue and thereby its credibility was lost for making logical comparison.

### Recent News:

#### Not planning to review FDI policy on e-commerce

There is no proposal under consideration of the government to review Foreign Direct Investment (FDI) policy on business to consumer (B2C) e-commerce. Global retail giants like Amazon wants India to relax the foreign investment norms in e-commerce space. Further, India's FDI policy restricts e-commerce companies from offering services to retail consumers.

## Zuari Cement Limited - ITAT- Hyderabad

**Outcome:** In favour of taxpayer

**Category:** Intra-group services

Tax court rejected TPO's view for application of CUP method in case where payments for intra-group services made by taxpayer constituted only fraction of total turnover.

Further, Tax Court upheld taxpayer's view that as the transactions of intra-group services were inextricably linked with the manufacturing and trading operation; the aggregation of transaction with application of TNMM was considered as most appropriate method.

#### Lok Sabha passes Finance Bill 15; Finance Minister (FM) clarifies on Minimum Alternate Tax (MAT)

The Hon'ble FM Arun Jaitley gave clarification on the contentious issue of MAT levied to Foreign Institutional Investors (FII's) as well as overall growth projection. The Minister opined that capital gains made by foreign investors will be exempt from MAT. Further, stated that capital gain from sale of securities, royalties, interest earned by foreign companies will be exempt from MAT, if the normal tax rate on such income is lower than 18.5 per cent. The Bill also amended to drop the phrase 'at any time' from the definition of the place of effective management, which was introduced to curb the formation of shell companies, which are located abroad but controlled from India to evade taxes.

## Ciena India Pvt Ltd – ITAT – Delhi

**Outcome:** In favour of Revenue

**Category:** Selection of Comparables

With respect to Provision of Software development services, Tax Court upheld TPO's approach of excluding the functionally comparable company 'Bodhtree Consulting' on the basis of unique recognition model.