

## Valvoline Cimmins Private Limited – ITAT – Delhi

**Outcome:** As **in favour** of taxpayer  
**Category:** Marketing Intangibles

Tax Court upheld taxpayer's view that, being a full-fledged manufacturer most of AMP (Advertising, Marketing & Promotion) expenses were incurred at its own discretion and not for the benefit of its Associated Enterprise (AE). Therefore, it did not result into separate international transaction and entity wide TNMM approach was permissible.

Further, tax court deleted transfer pricing adjustment of Rs. 239.8 million carried by TPO and also due to the fact of absence of records; tax court set aside the issue of marketing intangibles to tax officer for fresh verification.

**Comments:** In light of the Delhi High Court decision in case of LG and other interveners, a clear path of understanding has been laid.

However it is important to test the existence of Marketing Intangible as any creation, maintenance or development of such intangibles would lead to income in some form or other.

## JP Morgan Advisors India Private Limited – ITAT – Mumbai

**Outcome:** As **in favour** of taxpayer  
**Category:** Equity Shares

Tax Court upheld taxpayer's view that the prerequisite for application of section 92(1) of the Act was that income should arise from an international transaction and submitted that there was no income arising from issuance of shares.

Further, reference was placed on above rulings **Vodafone India and Shell India**, where rejection was placed on TPO's contention that treated shortfall between Arm's Length Price (ALP) of equity shares and actual price as deemed loan on which notional interest was charged.

## Diastar Jewellery Limited – ITAT - Mumbai

**Outcome:** As **in favour** of taxpayer  
**Category:** ALP determination

Tax Court accepted taxpayer's contention that difference in gross profit margin earned on cost to sales between AE (22.6 per cent) and Non-AE (35.18 per cent) was due to geographical difference. Further, request was made to remit the issue back to file of TPO.

Tax Court observed that after accepting the taxpayer's Cost plus method, TPO had adopted Internal CUP by applying margins of Non-AE to the transaction of taxpayer with AE which was considered to be inappropriate.

### Recent News:

## Make in India lion roars in Germany!

'**Make in India**' requires urgent creation of new infrastructure. Addressing an Indo-German business summit in Hanover the Hon'ble Prime Minister invited German businesses to participate in India's growth stride by investing more in manufacturing and infrastructure, and offered them a conducive business environment.

Focusing on '**Ease of doing business**' steps is taken to encourage innovation, research and entrepreneurship. Further, highlighted measures such as removing lot of "regressive" taxation regimes and making the regulatory regime more transparent, responsive and stable.

## To boost Make In India project; France to invest 2 billion Euros in India

France to partner India in Urban development of infrastructure like railways, defence and nuclear sector to boost '**Make in India campaign**'.