

Portfolio management services aren't comparable with investment research and advisory services for TP study

Summary – The Mumbai ITAT in a recent case of Bain Capital Advisors (India) (P.) Ltd., (the Assessee) held that A company providing portfolio management services cannot be compared to a company providing investment research and advisory services on a non-exclusive and non-binding basis

Facts

- The assessee-company was engaged in the business of providing investment research and advisory services to its parent company in Mauritius, on a non-exclusive and non-binding basis, in connection with potential investment opportunities in India.
- The TPO selected new comparable to determine ALP of said transaction and made adjustment.
- DRP upheld the said adjustment.
- The assessee-company contended that the TPO was not justified in including Motilal Oswal Investment Advisors (P.) Ltd. and IDFC Investment Advisors Ltd. as comparable companies for determining the arms' length price of provision of Investment Advisory Services.
- On appeal:

Held

Comparable Motilal Oswal Investment Advisors (P.) Ltd.

- The Tribunal in assessee's own case in the immediately preceding assessment year has directed for exclusion of Motilal Oswal Investment Advisors (P.) Ltd. from the list of comparable companies on the plea that it was engaged in diversified activities which are not functionally comparable with the assessee's activities.
- As the facts and circumstances during the year under consideration are same, respectfully following the order of the Tribunal in assessee's own case, the Assessing Officer was directed to exclude Motilal Oswal Investment Advisors (P.) Ltd. from the list of comparables and to recompute the adjustment to be made under section 92C(1).

Comparable IDFC

- The assessee is engaged in business of providing investment research and advisory services, on a non-exclusive and non-binding basis, in connection with potential investment opportunities in India. IDFC rendered portfolio management services for hybrid infrastructure portfolio, agriculture opportunities portfolio and farm fork portfolio. IDFC is registered as portfolio managed with SEBI. Thus, IDFC is functionally different from the assessee which is engaged merely in non-binding

investment advisory support services. Since IDFC is functionally different, the Assessing Officer is directed to exclude the IDFC from the list of comparables for computing arms' length adjustment.