

Advance given to foreign AE to acquire satellite rights of Hollywood movies isn't an international transaction

Summary – The Mumbai ITAT in a recent case of KSS Ltd., (the Assessee) held that Transaction of advancing money by assessee to its AE located abroad for acquisition of satellite rights of Hollywood films did not fall within purview of expression 'international transaction' in terms of section 92B

Facts

- In transfer pricing proceedings, the Assessing Officer made certain adjustment on account of Arm's Length interest, computed on notional basis, in respect of advance given to the AE by assessee.
- The DRP confirmed said addition.
- On appeal:

Held

- It was noted from the orders of the lower authorities that order of assessment year 2009-10 has been simply followed in this year while making impugned addition. Thus, this issue is entirely dependent upon the assessment year 2009-10 which has been disposed by the Tribunal. In relevant year, no fresh loan has been given rather amount of loan has been reduced on account of part payments received back from the said party. It is noted from the order of the DRP that opening balance due from the said party at the beginning of the year was Rs. 106.52 crores which was reduced to Rs. 73.96 crores at the end of the year. It is further noted that Tribunal in assessment year 2009-10, after making detailed discussion held that the addition was illegal and, therefore, the same was deleted.
- The Tribunal had recorded in its order that transaction of advancing the money for acquisition of satellite rights of the Hollywood movies under the agreement entered into by the assessee with its AE does not fall within the purview of expression 'international transaction' in terms of section 92B. Even otherwise, the transaction in question did not fulfil the mandatory requirement of giving rise to any income or benefit either to the assessee or AE of the assessee. The Tribunal had thus deleted the addition made by lower authorities.
- Following the aforesaid order of the coordinate Bench in assessee's own case, the Assessing Officer is directed to delete the impugned addition.
- In the result, the appeal of the assessee is allowed.