

## **Comparable selected by assessee couldn't be rejected without carrying out its functional comparability**

**Summary – The Delhi ITAT in a recent case of Carrier Airconditioning & Refrigeration Ltd., (the Assessee) held that where assessee-company, engaged in business of manufacture, assembly and sale of air-conditioning commercial refrigeration equipments, entered into various international transactions with its AE, since it adopted internal comparable of commercial refrigeration segment for justifying PLI of transport refrigeration segment, TPO without carrying out detailed functional comparability of two segments, could not reject said internal comparable and, make addition to assessee's ALP on basis of profit margin earned by an external comparable**

### **Facts**

- The assessee company, a 100 per cent subsidiary of Carrier Corporation, USA, was involved in business of manufacture, assembly and sale of transport, air conditioning commercial refrigeration equipments.
- The assessee operated through three Divisions, viz., Transport Division, Refrigeration Division and Air-conditioning Division.
- During relevant year, assessee entered into various international transactions with its AE such as import of raw materials and components, import of finished goods, export of finished goods etc. in all three segments.
- In transfer pricing proceedings, the assessee adopted internal comparable being segment 'C', i.e., commercial refrigeration for justifying the PLI of Transport Refrigeration Division being segment 'A'.
- The TPO opined that the function related to transport refrigeration segment could not be compared to the commercial refrigeration segment because of fact that assessee itself had considered these as separate lines of business. He, therefore, concluded that there existed no internal comparable for the Transport Division, which was Segment 'A'. Accordingly, he carried out search for external comparable and selected 'S' earning operating profit margin of 6.98 per cent.
- The TPO thus made certain addition to assessee's ALP.
- The DRP confirmed addition made by TPO.
- On appeal:

### **Held**

- The main issue in the instant appeal is regarding the functional comparability of Segment A, which was dealing in assembly and trading of refrigeration and
- cooling of all movable systems i.e. bus air-conditioning, truck refrigeration and container refrigeration with segment 'C' which dealt with commercial refrigeration systems of cold rooms, freezers, vizi coolers etc. where purchases were made from non-AEs and sales were made to non-AEs (domestic).

- It is apparent from the orders of lower revenue authorities that they have not carried out detailed functional comparability and had rejected assessee's claim on broad parameters without going into the actual substance of functions carried out by two segments 'A' and 'C'. Under such circumstances, it is opined that consideration of functions performed by two segments in question required technical expertise and, therefore, it would be proper to restore the matter to TPO with liberty to both the parties, viz., assessee and TPO to take the services of technical experts in the field before coming to any conclusion.
- In view of above, the matter is restored back to the file of TPO for fresh adjudication.