

No penalty for non-maintenance of TP docs if assessee furnished updated margins of earlier comparables

Summary – The Jaipur ITAT in a recent case of Integrated Decisions & Systems (India) (P.) Ltd., (the Assessee) held that where revenue had not controverted that assessee had provided similar services during relevant assessment year as provided in preceding assessment year and, therefore, comparable companies applied for in preceding year were relevant to transaction made during relevant assessment year, if assessee provided updated results of same comparables in relevant assessment year, that could not be reason to impose penalty under section 271AA

Facts

- The assessee was engaged in the development and online support of software.
- During assessment proceedings, the Assessing Officer held that the assessee had not used recent contemporary data for the purpose of benchmarking international transaction of the year in which the transaction took place and the comparables identified by the assessee were not considered valid as the appellant utilized the results of the same process as had been undertaken by it in the financial year 2004-05 and provided only updated margins for the same comparables. Accordingly, penalty under section 271AA was levied for default of the provisions/requirements prescribed by rule 10D(1), read with section 92D.
- On appeal, the Commissioner (Appeals) deleted penalty holding that the assessee had furnished required documents as per rule 10D(4), as far as possible; that the service rendered to the AE by the assessee was same as provided in assessment year 2004-05; and that the comparables were updated using databases updated as on 25-8-2006.
- On revenue's appeal :

Held

- The assessee disclosed international transaction made with associated enterprise. The Tribunal had decided that no upward adjustment is required in the arm's length price disclosed by the assessee. Whatever information was asked to supply by the Transfer Pricing Officer had been furnished before him, *i.e.*, nine comparable companies data were furnished out of which the Transfer Pricing Officer had selected five companies. The revenue had not controverted that the assessee had provided similar services during the year under consideration as provided in financial year 2004-05 and, therefore, comparable companies applied for financial year 2004-05 are relevant to the transactions made during the financial year 2005-06, which was also updated by the appellant. Accordingly, the order of the Commissioner (Appeals) is to be upheld.