

Suitable TP adjustment was to be made comparable was offered better discount than assessee

Summary – The Chennai ITAT in a recent case of Indian Additives Ltd., (the Assessee) held that where Lubrizol was procuring raw materials at lower cost as it was a JV promoted by IOCL and IOCL had given better discount in Lube Oil price/MT to Lubrizol, which was not available to assessee, suitable adjustments be made while determining ALP of said transaction

Facts

- The assessee was engaged in the manufacture and sale of lube additives. For the relevant assessment years, there was downward adjustments by TPO in respect of international transaction with its AE by following TNMM and benchmarking the financials of a company named Lubrizol which was also in the business of manufacturing automobile additives.
- The assessee-company had appealed for allowing adjustments on account of Lube Oil/Base oil/Mineral oil price and adjustment for Zinc Tolling Fee.

Held

- According to the assessee, Lubrizol was procuring raw materials at lower cost as it was a JV promoted by IOCL and IOCL has given better discount in Lube Oil price/MT to Lubrizol, which was not available to the assessee. If it is reflected in the financial statement of Lubrizol, it would be appropriate to give credit to the same and computation of TP adjustments be made thereafter while determining the ALP. Accordingly, the issue is remitted to the file of the Assessing Officer for reconsideration and give proper adjustments on account of raw materials cost of Lubriol and mineral oil.
- Regarding Tolling fee for Zinc, it was submitted that Lubrizol toll had their own Zinc and the assessee entered into sub-contract agreement with a company in Gujarat for making Zinc. Therefore the cost of Zinc in the case of assessee is higher compared to the cost incurred by the Lubrizol towards the Zinc. and the details of cost of procurement of Zinc by tolling, are available and if the Assessing Officer finds that the cost price of the Zinc incurred by the Lubrizol is lesser as compared to the assessee's case, then the suitable adjustments to be made while determining the ALP. Accordingly, this issue is also remitted to the file of the Assessing Officer for fresh consideration. It is needless to say that opportunity of hearing should be given to assessee by the Assessing Officer/TPO before deciding above issue.