

## ITAT couldn't remand matter back to TPO for afresh determination if details of comparables were available

**Summary – The High Court of Delhi in a recent case of Bechtel India (P.) Ltd., (the Assessee) held that where all details of comparables relevant for determination of ALP of international transactions in various segments were already available on record, Tribunal ought not have remanded said matter to TPO for de novo determination and this exercise should have been performed by Tribunal itself**

### Facts

- The assessee-company was a wholly owned subsidiary of a US company. It was engaged in the business of export of customized electronic data in the form of designs, drawings, calculations etc. It submitted a TP study as well as Form 3CEB listing out the nature of the international transactions undertaken by it, the value thereof, the most appropriate method, profit level indicator and the ALP results.
- The TPO discarded the approach followed in the TP study and proposed an adjustment attributable to the difference in the ALP of the international transactions entered by the assessee with its AEs. Thereafter, he *suo moto* rectified the adjustment made in the EDS segment and enhanced it. An upward revision of the ALP in the EDS, FAS and IT Infra segments, as well as interest on outstanding receivables was made by him.
- The DRP upheld the order of the TPO.
- The Tribunal remanded the issue to the TPO for *de novo* consideration.
- On appeal:

### Held

- The Court does not propose to examine each of these issues since it is of the view that it would be more appropriate for the Tribunal itself to decide the said issues without remanding the matter to the TPO.
- Consequently, the question framed by this Court is answered in the affirmative by holding that the Tribunal ought not have remanded the matter to the TPO for the *de novo* determination of the ALP of the international transactions in the various segments. This exercise should be performed by the Tribunal itself. This is on the basis of the submission of the assessee that all the details relevant for such determination are already available on record.
- The impugned order of the Tribunal is accordingly set aside. The issue is restored to the file of the Tribunal.