

Computing of ALP on adhoc basis by AO held not justified: ITAT

Summary – The Mumbai ITAT in a recent case of Lintas India (P.) Ltd., (the Assessee) held that computing of ALP on adhoc basis by AO was not justified

Facts

- The assessee advertising agency entered into certain international transactions with its Associated Enterprises (AEs) for availing certain intra-group services, namely, Global Information System (GIS) services, Management Services Fee (MSF) services and Multinational Client Co-ordination (MNC) services.
- The Transfer Pricing Officer issued an order under section 92CA(3) proposing a total adjustment of Rs. 8.72 crores to the total income of the assessee towards payment made for aforementioned intra-group services.
- The Assessing Officer, while passing the draft assessment order, proposed to make the adjustment totalling to Rs. 8.80 crores including the adjustments in relation to the transfer pricing. The adjustments proposed were all made on adhoc basis and without applying any of the methods prescribed for determination of ALP under the Transfer pricing laws.
- On the assessee's appeal before the Tribunal:

Held

- The ITAT held that the provisions of section 92C(1) mandates adoption of one of the prescribed method mentioned therein for determining the Arm's Length Price of the international transactions.
- The ITAT observed that there is no provision made in the statute empowering the Transfer Pricing Officer for determining the Arm's Length Price on a particular international transaction on an estimation basis/*adhoc* basis.
- Hence, the Transfer Pricing Officer is directed to delete the adjustment made to Arm's Length Price in respect of the aforesaid three services, viz., GIS services, MSF services and MNC services.