

Under charging of interest on excess credit period allowed to AE is an international transaction

Summary – The Delhi ITAT in a recent case of CPA Global Services (P.) Ltd., (the Assessee) held that Reimbursement costs should be excluded as they do not involve any functions to be performed so as to consider it for profitability purposes while computing operating cost

Non-charging or under charging of interest on excess period of credit allowed to AE for realization of invoices amounts to an international transaction

Facts

- The assessee-company offered a comprehensive range of legal support services which vary from legal research, deposition summaries, document review, etc. to both its AEs as well as to independent third party customers. The assessee had received a certain sum from its AEs as 'cost recharge for spare capacity' and claimed that it was only a reimbursement. The infrastructure set up costs were reimbursements and should not have been included in the cost base of the assessee.
- The department's stand had been that the assessee had not given any evidence and support of its claim that this expenditure was towards maintenance of spare capacity at the instance of the AEs.
- DRP held that ALP of the receipts from the AEs must include all costs and the assessee had failed to give cogent reasons for excluding certain costs for the purpose of computing ALP.

Held

- After considering the rival submissions and following the principles laid down by the Tribunal in *Dy. CIT v. Cheil Communications India (P.) Ltd.* [[2011\] 11 taxmann.com 205/46 SOT 60 \(URO\)](#) and *Four Soft Ltd. v. Dy. CIT* [IT Appeal No. 1495 (Hyd.) of 2010] that reimbursement costs should be excluded as they do not involve any functions to be performed so as to consider it for profitability purposes. The Assessing Officer/TPO is directed to exclude the reimbursement costs while working out the operating costs.