
Delhi High Court: AMP expenditure incurred by Maruti Suzuki India is not an international transaction.

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In a landmark ruling delivered by the Delhi HC in the case of Maruti Suzuki India Ltd (Maruti India) it has been held that AMP expenditure incurred by Maruti India is not an international transaction.

Maruti India is engaged in manufacture of passenger cars in India. Maruti India had entered into a license agreement with Suzuki which allowed it to use the co-branded trademark 'Maruti-Suzuki' on the vehicles. It incurred an AMP expense of 1.87% on sales as against 0.620% incurred by the comparable companies in the automobile segment. Accordingly, transfer pricing adjustment was made, along with a mark-up, on the excess AMP expenses incurred by Maruti India as compared with the comparable companies.

The Delhi HC observed that, since the earlier decision in the case of Sony Ericsson had expressly negated the use of Bright Line Test (BLT) for determining the arm's length price (ALP), there is no basis for considering AMP as an international transaction.

Further, the Delhi HC also observed that the ruling given earlier in the case of Sony Ericsson was delivered in the context of the taxpayers who were distributors of the products manufactured by the overseas group companies hence not applicable to manufactures, which is in the present case.

The Delhi HC further observed that on a step-by-step analysis of the transfer pricing provision it is evident that BLT has not been defined under the machinery provisions in respect of AMP expenses, to qualify as an international transaction.

Further, it was observed that since the AMP expense of the assessee was only 1.87% of its sales as against Suzuki's worldwide AMP expense of 7.5%, the assessee is benefitted by incurring the same, thereby belying the possibility of existence of an international transaction.

By giving the above decision, the Delhi HC has granted a relief to the manufacturers. The decision

perhaps may encourage the Make in India mission of Prime Minister Mr. Narendra Modi.

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