

CBDT signs unilateral APA with taxpayer operating in the travel industry

Continuing with the tremendous work rate shown in the last two years, the Central Board of Direct Taxes (CBDT) of India signed yet another unilateral Advance Pricing Agreement (APA) involving complex transactions for taxpayer operating in the travel industry. The key transactions resolved in the APA included travel industry related collaborative transactions amongst group entities besides certain intra group services. Considering the industry dynamics and business model of the taxpayer, for the major covered transactions under the APA, instead of agreeing upon a fixed price or margin, the pricing methodology to be followed during the APA period was agreed.

The signing of the said APA is a result of an openminded approach showcased by the APA authorities along with in-depth analysis of the taxpayer's facts and commercial arrangements. As very few APAs have been signed for such an industry and related transactions, it goes a long way in showing significant maturity level attained by the Indian APA authorities, which has resulted in accepting the taxpayers' proposed methodology while testing the profits earned by its foreign affiliates.

The Indian APA programme was introduced in 2012 to bring about certainty and uniformity in transfer pricing matters of multinational companies and reduce litigation. The programme allows unilateral as well as bilateral APAs to be entered into by the taxpayers. Unilateral APAs are agreed between Indian taxpayers and the CBDT without the involvement of the tax authorities of the country where the associated enterprise is based. In the last five years, over 750 taxpayers have filed APA applications demonstrating good faith and positive expectations of the taxpayer companies from the programme.

Our comments

The APA team exhibited an extremely pragmatic and solution-oriented approach throughout the APA process. The unique Functions, Assets and Risks (FAR) profile of the covered transactions and industry best practices were appreciated while finalising the APA. Conclusion of such an APA for transactions on which the taxpayer has faced litigation in the past clearly expresses the willingness of the Indian APA authorities to resolve complex issues. This will definitely encourage taxpayers to take the APA route to obtain certainty on their transfer prices.



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Ahmedabad

Commerce House V, 9th Floor, 902 & 903, Near Vodafone House, Corporate Road, Prahlad Nagar, Ahmedabad – 380 051 Tel: +91 79 4040 2200 Fax: +91 79 4040 2244

Bengaluru

Maruthi Info-Tech Centre 11-12/1, Inner Ring Road Koramangala, Bengaluru – 560 071 Tel: +91 80 3980 6000 Fax: +91 80 3980 6999

Chandigarh

SCO 22-23 (Ist Floor) Sector 8C, Madhya Marg Chandigarh – 160 009 Tel: +91 172 393 5777/781 Fax: +91 172 393 5780

Chennai

KRM Tower, Ground Floor, No 1, Harrington Road Chetpet, Chennai – 600 031 Tel: +91 44 3914 5000 Fax: +91 44 3914 5999

Gurugram

Building No.10, 8th Floor DLF Cyber City, Phase II Gurugram, Haryana – 122 002 Tel: +91 124 307 4000 Fax: +91 124 254 9101

Hyderabad

Salarpuria Knowledge City, ORWELL, 6th Floor, Unit 3, Phase III, Sy No. 83/1, Plot No 2, Serilingampally Mandal, Raidurg Ranga Reddy District, Hyderabad, Telangana – 500081 Tel: +91 40 6111 6000 Fax: +91 40 6111 6799

Jaipur

Regus Radiant Centres Pvt Ltd., Level 6, Jaipur Centre Mall, B2 By pass Tonk Road Jaipur, Rajasthan, 302018. Tel: +91 141 - 7103224

Kochi

Syama Business Center 3rd Floor, NH By Pass Road, Vytilla, Kochi – 682019 Tel: +91 484 302 7000 Fax: +91 484 302 7001

Kolkata

Unit No. 603 – 604, 6th Floor, Tower – 1, Godrej Waterside, Sector – V, Salt Lake, Kolkata – 700 091 Tel: +91 33 4403 4000 Fax: +91 33 4403 4199

Mumbai

Lodha Excelus, Apollo Mills N. M. Joshi Marg Mahalaxmi, Mumbai – 400 011 Tel: +91 22 3989 6000 Fax: +91 22 3983 6000

Noida

Unit No. 501, 5th Floor, Advant Navis Business Park Tower-B, Plot# 7, Sector 142, Expressway Noida, Gautam Budh Nagar, Noida – 201305 Tel: +91 0120 386 8000 Fax: +91 0120 386 8999

Pune

9th floor, Business Plaza, Westin Hotel Campus, 36/3-B, Koregaon Park Annex, Mundhwa Road, Ghorpadi, Pune – 411001 Tel: +91 20 6747 7000 Fax: +91 20 6747 7100

Vadodara

iPlex India Private Limited, 1st floor office space, No. 1004, Vadodara Hyper, Dr. V S Marg Alkapuri, Vadodara – 390 007 Tel: +91 0265 235 1085/232 2607/232 2672

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