



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.

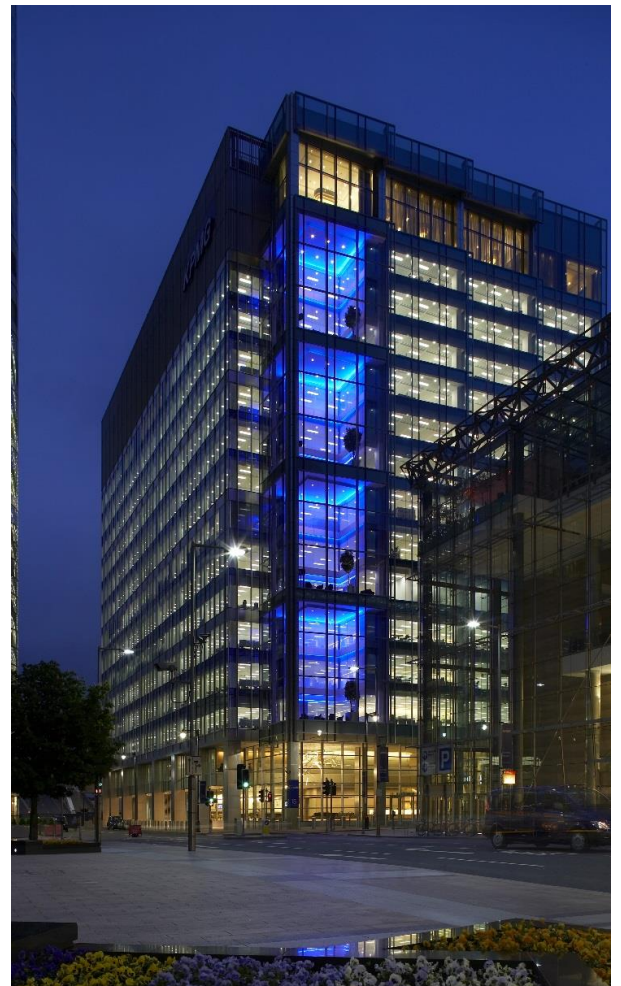
The signing of the said APA is a result of an open-minded approach showcased by the APA authorities along with in-depth analysis of the taxpayer's facts and commercial arrangements. As very few APAs have been signed for such an industry and related transactions, it goes a long way in showing significant 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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