

Apex Court Decision on Transfer Pricing

Arm's Length Price Determination – Whether TP Provisions are followed or not for selection/rejection of companies/filters and whether ITAT findings are Perverse or not? – Now, 'substantial question of law.'

Without entering into the merits of cases, the Hon'ble Supreme Court ('SC') quashed and set aside various High Court judgments w.r.t. selection/rejection of comparable companies, quantitative and qualitative filters.

SC's key observations:

- Determination of ALP to be considered a 'substantial question of law' on the satisfaction of the following conditions:
 1. Guidelines under the Act and Rules are followed or not;
 2. Findings recorded by ITAT are perverse or not

The aforesaid exercise be completed, preferably within nine months from the date of receipt of the present order by the respective High Courts.

- Chapter X needs to be adhered to along with the Rules for the determination of ALP, and any deviation would lead to a substantial question of law before the Hon'ble HC.
- The Hon'ble HC can also examine the comparability of two companies or the selection of filters and whether the same is done judiciously based on the relevant material/evidence on record.