

BHC in IAL Shipping Agencies

In context of separate-legal entity approach (may be useful in VODAFONE case), BHC has observed that: "It cannot be said that the assessee company and the UK company, which were under the same management, are the same entity. Both of them are separate companies incorporated under the respective statutes of their countries and merely because the shareholding is held by the same group, the companies do not lose their separate entities and the conclusion of the assessing officer that they cannot act as principals and agents is bad in law especially when it is not in dispute that the assessee companies were incorporated in India whereas the said IAL Container Lines (UK) Ltd. was incorporated under the provisions of the Companies Act prevailing in UK. The UK company was already carrying out its activities of shipping business in India prior to the incorporation of the assessee "

In context of Principal Agent Relationship, it is held that merely because Indian party is billing the customers in its own name, cannot be a ground to treat it as Principal as it is prevalent trade practice that agents do not disclose principal identity and make transactions in their own name.