

Transfer pricing tolerance band will be 5% for 2011-12 too

Multinational companies and Indian industrial houses that have spread their wings abroad can raise a toast to the Income-Tax Department.

In times of economic woe, the Tax Department has shown its generosity by retaining the tolerance band for transfer pricing adjustment at five per cent for the financial year 2011-12.

Simply put, the Tax Department has promised that it would not resort to transfer pricing adjustments in cases where the variation between the actual price of the transaction and the arm's length price (ALP) does not exceed 5 per cent of the transaction price. In such cases, the actual price will be treated as the ALP.

The Tax Department's latest move comes more than 15 months after the passage of Budget 2011-12.

Industry expressed some surprise on two counts — one, the Tax Department taking a call and actually specifying a tolerance band and, two, retaining the 5 per cent tolerance band.

Budget 2011-12 had empowered the Centre to notify the allowable variable percentages for different industries from time to time.

The Centre has now specified 5 per cent tolerance band for financial year 2011-12 for all industries.

This tolerance band has been in the statute book ever since the transfer pricing regulations came into force in 2001. This CBDT move is a welcome surprise and the 5 per cent range is a good outcome, said Vijay Iyer, National Leader – Transfer Pricing, Ernst & Young.

“Range is now wide enough. The ultimate impact will be total quantum of transfer pricing adjustment will come down.

“This is because the probability of taxpayer winning at the High Court level will go up.”

India is the third highest jurisdiction with pending transfer pricing disputes, according to Ernst & Young Global Transfer Pricing Survey 2012, released today.

With more than 50 per cent of the transfer pricing cases in litigation, transfer pricing takes the premium spot in Indian tax litigation.

From 2001 – when the TP regulations came into force – till 2007-08 (the latest audit cycle that has been completed), the total amount of adjustments stood at about \$19 billion.

Indian transfer pricing regulations have now matured and time has come to go in for broader and internationally accepted principle of inter-quartile range, said S.P. Singh, Senior Director, Deloitte, Haskins & Sells.

An inter-quartile range will reduce transfer pricing adjustments with fewer disputes, according to Samir Gandhi, Tax Partner, Deloitte, Haskins & Sells.

(The Hindu)