

International Transfer Pricing, Taxation and Need for Advance Pricing Arrangement

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Abstract:

With pace of on going globalization the role of international technology transfers and foreign investments is assuming much more significance than ever before. However, in line with their policies of global profit maximization, the agents of such process such as the MNCs have been using the transfer pricing mechanism with all its abuses, which has been giving rise to disputes with the taxation authorities in host countries. This issue has, therefore, become one of the major area of concern in international business as the taxation authorities the world over, with the fast developments in information technology, are now in a much better position to ascertain the losses to their nations as a result of tax avoidance by the MNCs. At the same time, international technology transfers and foreign investments are also considered the engines of growth and economic development. The taxation policies concerning to transfer pricing, therefore, should not come in the way and discourage the foreign investors to bring more and more investments. The advance pricing arrangement (APA) is a solution for this dilemma which gives total transparency right from the beginning, save both taxpayer's (MNCs) and tax authority's time & cost, reduces litigation and encourages foreign investors to invest more. In this background attempt has been made in this paper to throw some light on transfer pricing and describe advance pricing arrangement system as is being practiced by some of the developed and developing countries to attract more foreign investments and technology transfers. In this context paper elaborates upon the following sub-titles:

- Objectives of International Transfer Pricing
- Transfer Pricing and Taxation
- Advance pricing Arrangements
- Procedures for Advance Pricing Arrangement (APA) viz. Pre-Application Filing Stage, Formal Application Filing Stage, Examination/Analysis/Scrutiny and Evaluation Stage, Stage of Negotiations, Signing of the APA, Execution and Monitoring, Coordination with Relevant Tax Authorities and Maintaining Confidentiality
- Benefits of an APA

It is concluded in the paper that international technology transfers, foreign direct investments, joint ventures, international mergers and acquisitions, establishment of subsidiaries and branches in foreign countries, etc. have become the most important aspects of international business with the rapid pace of globalization. These transfers, however, essentially evolve the abuse of transfer pricing with the transfer of tangible and intangibles by MNCs to their partners in the host countries. These MNCs are now having tough time, than ever before, with the host countries' taxation authorities as these

authorities are now in a much better position to estimate to a large extent the incidence of transfer pricing on their national exchequer by way of duty evasions. Therefore, the disputes between the taxation authorities and MNCs are increasing day by day and this issue is becoming a barrier in smooth flow of foreign investment and international technology transfer. One way to solve this issue is to go for a total transparency right from the beginning through a system of Advance Pricing Arrangement. A number of developed as also the developing countries like China have already set up such mechanism to strengthen the smooth flow of foreign investments and technology transfers, however, many countries including India are still exploring the possibilities for setting up such mechanism. The need for the time, however, is to set up such system on priority as it will not only reduce the litigation but will also attract more international technology transfer and foreign investments.

Keywords: Advance Pricing Arrangement, Transfer Pricing, International Technology