

# TRANSFER PRICING

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Special Bench hold Transfer Pricing provision under Section 92 applicable to entities claiming tax holidays – M/s Doshi Accounting Services Private Limited vs. DCIT [Special Bench Ruling – TS–1086–ITAT–2019(Ahd)–TP]

Ahmedabad ITAT Special Bench in case of M/s Doshi Accounting Services Private Limited held that arm's length price on international transactions deserved to be determined under Section 92 of the Act even if an assessee is eligible for tax exemption at rate of 100 percent under Section 10A/10B of the Act. While pronouncing the said "ratio" ITAT observed as under:

- There is no express provision under the Act restricting the application of Section 92 of the Act where such income is eligible for deduction under Section 10A of the Act;
- The proviso to Section 92 of the Act itself reflect intend of the statute to invoke TP provision even in case of assessee is entitled to deduction under Section 10A of the Act. Thus, there is no need to refer to the intention or purpose of the statute or application of reasonable construction.
- The purpose of introducing Section 10A of the Act is to bring foreign exchange in India while granting tax exemption is only an incidental object. Thus, where the amount of revenue or expenses does not correspond to arm's length price, the same will adversely affect the inflow of foreign exchange. Accordingly, if contention that Chapter X should not be applied to assessee claiming Section 10A benefit is upheld, the main object of inserting Section 10A in the statute will stand unaccomplished.
- Proposition laid down by Hon'ble Bombay High Court in case of *Vodafone India Services P. Ltd.*, (361 ITR 531) would not be applicable in this case, as there was no income accruing in the case of Vodafone as defined under the Section 2(24) of the Act whereas in the case on hand there is an income accruing to the assessee from the export of services.
- The question of two views about the interpretation to Section 10A of the Act vis-à-vis Chapter X in the given facts and circumstances does not arise as none of the provision has either been made subject to each other or superseded by each other.