



Direct Tax Update:-Supreme Court of India sets new precedent; High Court's to address 'substantial question of law' on comparable selection & ALP determination

Supreme Court of India set's a new precedent, requiring the High Court's to consider a "substantial question of law" relating to the comparable selection and determination of ALP

Hon'ble Supreme Court of India overturned the ratio laid down by the Hon'ble Karnataka High Court in case of **Softbrands India (P) Ltd** which held that the determination of the arm's length price by the Income-tax Appellate Tribunal shall be final and the High Court is precluded from examining the same as there is no "substantial question of law" arising unless there is a perversity established in the Tribunal rulings with regard to transfer pricing disputes.

The Hon'ble Supreme Court of India further ruled that any determination of the arm length price

which is outside the scope of the relevant provisions of the transfer pricing guidelines can be considered as perverse, and thus it may be considered as a substantial question of law. The Court has also stated that it is open for the High Court to consider and examine whether the arm's length price has been determined while taking into consideration the relevant transfer pricing guidelines under the Income-tax Act and the Rules.

For details, please refer the ruling of Hon'ble Supreme Court of India in the case of Pr. CIT v. Softbrands India (P.) Ltd. [*Civil Appeal No. 8463 of 2022*] dated 19.04.2023:

https://main.sci.gov.in/supremecourt/2018/38332/38332_2018_4_1501_43620_Judgement_19-Apr-2023.pdf

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CONTACT US

DPNC GLOBAL LLP

📍 Windsor Grand, 15th Floor,
Plot No.1C, Sector – 126,
Noida – 201301, U.P.,
India Phone

☎ +91.120.6456999

✉ dpnc@dpncglobal.com

🌐 www.dpncglobal.com

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