

The Tribunal observed that under Indian transfer pricing rules, the PSM is applicable mainly in international transactions:

- (a) involving transfer of unique intangibles; or in multiple international transactions that are so interrelated they cannot be evaluated separately.

Under the transfer pricing rules, a taxpayer can adopt either contribution PSM, where the entire system profits are split among the various AEs who are parties to the transaction or RPSM, where each of the AEs who are parties to the transaction is given a pre-designed basic return for the routine functions performed by them, and thereafter the residual profits are split among the AEs.

Where RPSM is adopted, the Tribunal held that in the first stage the profits need to be split among the AEs on the basis of reliable external market data, which indicates how unrelated parties have split the profits in similar circumstances. At the first stage, benchmarking with reliable external market data is to be done. In this step, the combined net profits are partially allocated to each enterprise so as to provide it with an appropriate base return keeping in view the nature of the transaction.

The residual profits may be split on per relative contribution of the AEs, which need not be benchmarked by external market or comparable data. However, a scientific methodology may be applied for allocating the residual profits.

Based on the facts of the case, the Tribunal upheld in favor of the taxpayer the use of RPSM at the MAA.

SERVICE TAX

Exemption for Sponsorship of Sporting events extended even if participating team represents Country

Services by way of sponsorship of sporting events organized by a national sports federation, or its affiliated federations were exempt if participating teams or individuals represent any district, state or zone. The aforesaid exemption has been extended even if a participating teams or individuals represents Country.

Notification No. 1/2014-Service Tax dated 10th January, 2014

Clarifications relating to exemption provided to Resident Welfare Association

With reference to serial No. 28(c) of notification No. 25/2012 dated June 20, 2012 which provides for exemption to service by RWA to its own members by way of reimbursement of charges or share of contribution up to an amount of five thousand rupees per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex, the Board had clarified certain doubts regarding such exemption vide Circular No. 175 /01 /2014 – 11 dated January 10, 2014 which have been discussed below:

S. No	Doubt	Clarification
1	If the per month per member contribution of any or some members of a RWA exceeds five	No

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RJ Shavelson



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