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PARTNERS BEYOND BOUNDARIES

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In this edition of our thought leadership publication, we have tracked the progress of some significant cases decided by the appellate forums across the country and an important notification, circular and press release issued by the Central Board of Direct Taxes.

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Transfer pricing

Case Law 1: Woco Motherson Advanced Rubber Technologies Limited Vs. DCIT (ITA Nos.: 89 and 3208/Ahd/11, 2637/Ahd/12, 474/Ahd/14, 63 and 593/RJT/2015)

While using the internal comparable price ('CUP') method, one cannot take a transaction between another associated enterprise ('AE') of the assessee as a comparable to determine the arms length price ('ALP') of the transaction between the assessee and its AE.

Further, in the course of ascertaining the ALP, all that the transfer pricing officer ('TPO') has to examine is whether the consideration paid by the assessee is at arm's length, rather than sitting in judgement over whether the assessee should have incurred these expenses at all. Additionally, the TPO cannot disregard the commercial expediency of the transaction on the basis that the consideration has been paid to a company which is a tax resident of a low tax jurisdiction.

Facts of the case:

The assessee, Woco Motherson Advanced Rubber Technologies Limited is a joint venture between Woco Franz Joseph Wolf Holding GmbH ('*Woco Germany*') and Mothersons Sumi Systems Limited. The assessee is engaged in manufacturing of high quality rubber parts, rubber plastic parts, rubber metal parts and liquid silicon rubber parts. Woco Germany had agreed to grant the assessee a non-exclusive license to manufacture, use, exercise or sell the licensed products at NIL royalty rate. During AYs 2006-07, 2007-08, 2008-09, 2009-10, 2010-11 and 2011-12, the assessee entered into international transaction with its AE, Woco Sharjah for payment of technical services fees.

The TPO noted that assessee had made such payment to Woco Sharjah while the intangibles associated with the manufacturing process were owned by Woco Germany. TPO also noted that Woco Sharjah was in a tax haven country having very low tax rate.

The assessee explained that the services by Woco Germany and Woco Sharjah were distinct, as the technical services agreement between the assessee and Woco Sharjah was for achieving operational and technical competencies, relating to the know-how and technology licensed to the assessee by Woco Germany. The TPO however rejected assessee's contentions and adopted the ALP of technical services fees as NIL. The TPO claimed that when the same services were received by the assessee from Woco Germany without any consideration, the services received from Woco Sharjah should have been benchmarked on the basis of an internal CUP.

The Hon'ble DRP confirmed the adjustment of the TPO.

Aggrieved, the assessee preferred an appeal before the Hon'ble Tribunal.

Decision of the Hon'ble Tribunal

1. Can the transaction with Woco Germany be used as valid internal CUP?

The Hon'ble Tribunal held that even if the services rendered, or believed to have been rendered, by Woco Germany are the same as rendered by Woco Sharjah, the same cannot be treated, being an intra AE transaction, as a valid Internal CUP. The Hon'ble Tribunal stated that only an uncontrolled transaction, i.e. between the independent enterprises, can be used as a benchmark to ascertain ALP.

The Hon'ble Tribunal thus rejected the stand for adoption of assessee's transactions with Woco Germany, as a valid comparable for application of internal CUP method.

Further, noting the revenue's arguments for application of CUP method, the Hon'ble Tribunal observed that the assessee's comparables had been rejected and no other comparables were given by the TPO.

The Hon'ble Tribunal thus held that even if CUP is sought to be applied, appropriate comparables are to be brought on record, in case the comparables adopted by the assessee are to be rejected. One cannot proceed on the basis that under CUP method these services are worthless and, therefore, NIL value should be adopted.

2. Are the agreements with Woko Germany and Woco Sharjah comparable?

The Hon'ble Tribunal thereafter, referring to the respective agreements of the assessee with Woko Germany and Woko Sharjah, brought out the distinctions in the same as follows:

	Agreement with Woco Germany	Agreement with Woco Sharjah
Purpose	Right, authority and license for use of know-how and trademark	Operational and technical competencies relating to manufacturing know-how provided under the license agreement and effective commercial exploitation.
Obligation on AE	To furnish and disclose to the licensee all know-how relating to development and manufacturing of the licensed products	Directly or indirectly furnishing of guidance, advice and assistance with regard to use of product formulae, process technology, know-how etc.

The Hon'ble Tribunal thus concluded that the scope of the two agreements is distinct and separate.

Further, in regard to the TPO's observation that the service provider does not own the intangible, the Hon'ble Tribunal observed that the lower authorities have essentially overlooked the fact that provision of technical assistance required for use of technology does not require the technology to be owned by the service provider itself. It observed that Woko Sharjah had the necessary knowledge, skills and expertise in the use of the same technology. As long as the technical services are received by the assessee, the payment for these services cannot be declined on the ground that ideally this payment should have been made to the German entity.

Thus, it held that once the rendition of services is reasonably evidenced, it cannot be open to the TPO to disregard the same and come to the conclusion that these services need not have been compensated for or ought to have been rendered by Woco Germany.

3. Whether tax evaded by making payments to company located in tax haven?

The Hon'ble Tribunal held that so far as determination of ALP is concerned, all that is to be examined is as to what is the ALP of the transaction in question, irrespective of the fact as to whether or not the person entering into transaction is in a high tax jurisdiction or low tax jurisdiction. If a person is in a low tax jurisdiction but the ALP of the transaction is the same at which the transaction is entered into, the transaction value cannot be tinkered with.

Consequently, the Hon'ble Tribunal concluded that the TP adjustments were devoid of any legally sustainable merits and deleted the same.

Case law 2: Grindwell Norton Ltd Vs. ACIT [2016] (74 taxmann.com 249)

The ALP calculated between two incomparable situations suffers from inherent misconception.

Facts of the case:

The AE of the assesse, based in Bhutan raised a term loan from the bank. The assessee provided corporate guarantee to the bank in connection with the said borrowing and charged corporate guarantee fee at the rate of 1% from its AE.

To compute the corporate guarantee fee at ALP, the TPO noted the difference between the credit rating of assessee and credit rating of AE. Such difference was reflected as the benefit given to the AE in the form of corporate guarantee.

Thus, the TPO benchmarked the instant transaction of provision of corporate guarantee on the basis of the respective abilities of the assessee and AE to raise the bonds in the Indian domestic market and determined the ALP of the said transaction to be at 3.35%. Adjustments were made accordingly.

Aggrieved, the assessee preferred an appeal with the Commissioner of Income Tax (Appeals) ('*CIT(A)*') who confirmed the said adjustments made by the TPO. Thus, the assessee further preferred an appeal with the Hon'ble Tribunal.

Decision of the Hon'ble Tribunal:

The Hon'ble Tribunal relying on the decision rendered by the Hon'ble Bombay High Court in the case of Everest Kanto Cylinders Ltd. [2015] 378 ITR 57/232 held that the considerations which weigh for raising the bonds in Indian market, were quite distinct and incomparable with the instance of providing corporate guarantee to a bank abroad in connection with raising of loan from such bank by the AE of assessee outside India.

Hence, the corporate guarantee fee charged by the assessee at the rate of 1% was well-founded and did not require any transfer pricing adjustment.

Thus, the ALP cannot be calculated on the basis on two incomparable situations.

International tax

Case Law 1: Stempeutics Research Private Limited Vs. Joint Director of Income Tax (Intl Tax) (IT(IT)A No. 1450/Bang/2013 and 1196/Bang/2014)

Reimbursement of expenses by assessee to its subsidiary made on account of provision of services to third party under a tripartite agreement falls within the ambit of term 'fees for technical services' ('FTS').

Facts of the case:

The assessee is a company formed with a mandate of Research & Development *('R&D')* and manufacturing of therapeutic product based on stem cells. The assessee has a subsidiary in Malaysia engaged in development and manufacturing of product based on stem cells. A tripartite product development agreement was entered into between the assessee, the assessee's Malaysian subsidiary and Cipla Ltd. for carrying out research activity at all the units of the assessee as well as all the units of the Malaysian subsidiary. The agreement with Cipla Ltd. was to sell the new product manufactured by the assessee and the Malaysian subsidiary to Cipla Ltd.

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on a principle to principle basis. Cipla Ltd. paid a certain amount to the assessee for the R&D expenses which would be incurred by the assessee and the Malaysian subsidiary. The Malaysian subsidiary carried out clinical trials and the R&D expenses incurred towards research activity in respect of the same were reimbursed to it by the assessee.

The Assessing Officer ('AO') held that the payment by the assessee to its subsidiary is fees for technical service and therefore chargeable to tax in India on gross basis. Consequently, the assessee was under obligation to deduct tax at source under section 195 of the Income Tax Act,1961 ('*the Act*') failing which the assessee is liable as assessee in default under section 201(1) and 201(1A) of the Act.

The CIT(A) upheld the order of the AO. Thus, the assessee preferred an appeal with the Hon'ble Bangalore Tribunal.

Decision of the Hon'ble Bangalore Tribunal:

- The outcome product of the R&D as well as clinical trials conducted by the assessee and its subsidiary would not belong to either of them, but Cipla Ltd. would have the right over the same i.e. right to acquire the outcome in the shape of technical information, technology documentation, know-how and process involved in all clinical R&D.
- Also, under the Article 13 of the India-Malaysia Double Tax Avoidance Agreement ('*DTAA*'), it is clear that there is no clause of 'make available' and thus, the term FTS means payment of any kind in consideration for rendering of managerial, technical or consultancy services.
- Conducting clinical trials and R&D is clearly a service which is technical in nature therefore providing the outcome of the research to Cipla Ltd. through the assessee clearly falls under the ambit of the term 'fees for technical services' as per the Article 13 of the DTAA between India & Malaysia.

Thus, mere terming of the payment as 'reimbursement of expenses' would not exclude the payment from being covered within the ambit of 'fees for technical services' if the services are rendered to a third party through an intermediary.

Case Law 2: Outotec Oyj Vs. Deputy Director of Income-tax (ITA No. 558/Kol/2014 & ITA No. 462/Kol/2015)

In order to fall within the purview of 'fee for technical services' under the DTAA, not only the services should be technical in nature but also should be such that it will result in making the technology available to the person receiving the technical services. Merely because the provision of the service may require technical input by the person providing the service, it cannot be said that technical knowledge, skills, etc. are made available to the person purchasing the service.

Further, the principle of parallel treaty interpretation is permissible where language of the two treaties is similarly worded and one treaty clarifies meaning of the terms (or language) used.

Facts of the case:

The brief facts of the issue are that the assessee company is a tax resident of Finland and is engaged *inter-alia* in the business of providing innovative and environmentally sound solutions for a wide variety of customers in metals and mineral processing industries. The assessee filed a NIL return for the AY under consideration. During the year under consideration, the assessee earned revenue from management support and other services. These services are provided to its Indian group company. As per the AO, the services rendered by the assessee to its Indian group company, satisfied the 'make available' clause and thus the AO proposed to bring this amount to tax as FTS. The assessee contended before the AO that the services provided by it are managerial services and these services fall outside the definition of FTS under India –Finland DTAA. The AO did not accept the contentions of the assessee and held that these services constituted FTS and passed the draft assessment order, against which the assessee preferred objections before the Hon'ble Dispute Resolution Panel ('*DRP*').

The Hon'ble DRP observed that the taxability of services rendered by the assessee to its group company requires to be examined in order to ascertain the true nature of the services. The Hon'ble DRP examined the service agreement and also observed that the invoices furnished indicated that services have been provided by the assessee to its group company for internet technology ('*IT*') services, setting up of IT infra and also other services which have been simply described as 'service fee'. The Hon'ble DRP observed that the absence of specific nature of service in the invoices can lead to assumption that all the services have been rendered by the assessee. Accordingly, it held that the services rendered by the assessee company to be FTS and accordingly upheld the action of the AO in taxing the same.

Aggrieved, the assessee preferred an appeal before the Hon'ble Tribunal.

Decision of the Hon'ble Tribunal:

The Tribunal considered the assessee representative's ('*AR*') arguments that the nature of services provided by assessee to its group company is primarily 'managerial' in nature. The word 'managerial' has not been used in the definition of 'FTS' provided under Article 13(4) of the DTAA as applicable during the relevant AY and hence such services do not fall under the ambit of FTS. Secondly, the services rendered do not 'make available' technical know-how, skills to the recipients. The meaning of word 'make available' has not been defined in India –Finland DTAA and hence the AR placed reliance on the Protocol to the India –USA DTAA which has a similar provision to determine the meaning of 'make available'.

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The Hon'ble Tribunal learned that the services rendered by the assessee squarely falls within the definition of FTS as per the provisions of the Act, on which point there is no dispute by both the sides. The dispute relates to whether the same would fall under FTS as per DTAA or otherwise. The Tribunal deemed it fit and appropriate to ignore the same and decided to look at the issue on the basis of 'make available clause' of any technical knowledge, skill etc. of the DTAA. On the basis of the nature of services rendered by the assessee to the Indian group company, the Hon'ble Tribunal concluded that there is no technology or technical knowhow, skills etc. that were made available by the assessee in order to enable the Indian group company to function on its own without the dependence of the assessee. On a perusal of the service agreement, it was analysed that the agreement was for an indefinite period and such services were to be provided on a recurring basis by the assessee to the Indian group company. The Hon'ble Tribunal found force in the argument of the AR that had the technical knowhow, skills etc. being made available, then there would be no need for the Indian group company to recourse to the assessee for these services.

Further, it is a settled principle that a DTAA with one country can be compared with the DTAA with another country in case of ambiguity and in order to understand the true scope and meaning of the concerned DTAA, provided that the two DTAAs in question are worded on similar lines.

In view of the aforesaid facts and findings and the Hon'ble Tribunal held that the amounts received by the assessee from its group company does not qualify as FTS as per the DTAA.

Case law 3: ABB FZ LLC Vs. Income tax Officer (ITA No. 188/BANG/2016)

Fees for technical services received by UAE entity from its Indian counterpart would not be chargeable to tax in India in absence of the provision in the Indo-UAE DTAA.

Facts of the case:

The assessee was a company incorporated in the UAE which provided technical services across the globe. The assessee received fees for technical services rendered to its Indian counterpart. In absence of the provision to tax FTS as per Indo-UAE DTAA, the assessee had not offered the said income for taxation in India. The assessee claimed that the said income had already been offered to tax in UAE. Further, the assessee stated that it did not have a permanent establishment ('*PE*') in India.

However, the AO held that since there was no contrary provision governing the taxability of FTS in the Indo-UAE DTAA, the said income was ought to be taxed as per the domestic provisions under section 9(1)(vii) of the Act.

The assessee filed his objections before the Hon'ble DRP. However, the Hon'ble DRP confirmed the view taken by AO.

Aggrieved by the decision of Hon'ble DRP, the assessee preferred an appeal before the Hon'ble Bangalore Tribunal.

Decision of the Hon'ble Tribunal:

- Relying on the decision rendered by the Hon'ble Tribunal in the case of IBM India Pvt. Ltd. Vs. DDIT IT(IT)A Nos.489 to 498/Bang/2013, the Hon'ble Tribunal opined that the income in the nature of FTS shall be taxed as business and profession and not FTS since there is no express provision governing the taxability of FTS in the DTAA.
- Thus, the Hon'ble Tribunal disregarded the contentions of the AO and held that the said income will not be taxable under section 9(1)(vii) of the Act.
- Further, it was held that since the assessee did not have a PE in India, the said income will not be taxable in India.
- Therefore, the appeal of the assessee was allowed.

Thus, in the absence of the provision in the DTAA to tax FTS, the same would be taxed as per the Article 7 of the DTAA. Further, in the absence of a PE in India, the FTS will not be taxed in India.

Domestic taxation

Case Law 1: Travancore Diagnostics Private Limited Vs. Asst. CIT [2016] (74 taxmann.com 239)(Kerala)

Provisions of section 292BB of the Act can be availed only if notice under section 143(2) of the Act is validly issued. Assessment would be invalid in absence of proper issuance of the notice even if the assessee participates in the proceedings.

Summary of the case:

The assessee is a company having a diagnostics laboratory at Kollam and a branch at Kottarakkara. On a suspicion of suppression or escaped assessment, a survey was conducted under the provisions of section 133A of the Act both in the Kollam and Kottarakkara premises of the assessee. On the basis of certain alleged incriminating documents and materials unearthed during the survey, the revenue issued a notice under section 148 of the Act. Submissions were made by the assessee and an assessment order was passed by the AO after making certain additions.
On appeal to the CIT(A) by the assessee, the CIT(A) restricted the additions made to the extent of difference in the actual gross collection as was reflected in the incriminating papers. The AO and the assessee then filed cross objections with the Hon'ble Tribunal wherein the assessee stated that no notice under section 143(2) of the Act had ever been issued to him and that in such circumstances, the entire assessment fails. However, the Hon'ble Tribunal held that since the representative of the assessee had participated in the reassessment proceedings under Section 147 and the assessment proceedings under section 143 of the Act, absence of issuance of notice under section 143(2) would have no bearing and would stand condoned in view of Section 292BB of the Act.

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Thus, the assessee preferred an appeal before the Hon'ble Kerala High Court.

Decision of the Hon'ble Kerala High Court:

- It is virtually admitted by the revenue that no notice under section 143(2) of the Act had been issued. In ACIT Vs. Hotel Blue Moon [2010] 321 ITR 362, the Hon'ble Supreme Court has already settled the position of law that the omission on the part of the AO to issue notice under section 143(2) of the Act cannot be a procedural irregularity and that the same is not curable and that therefore, the requirement of notice under section 143(2) of the Act cannot be dispensed with.
- There is no hesitation in holding that the AO can and avail the benefit under section 292BB of the Act and the assessee will be burdened by the rigour of estoppel contained therein only after a notice under section 143(2) of the Act had been validly issued.
- When it is virtually admitted that no such notice had been issued, the AO loses even the authority to enter into the jurisdiction under section 143 of the Act and the participation or otherwise of the assessee would be of no avail.

Thus, if a notice under section 143(2) of the Act has not been issued, the AO cannot claim the benefit under section 292BB of the Act.

Case Law 2: State Bank of Mauritius Ltd Vs. Deputy Director of Income-tax (ITA No. 3139/Mum/2008, ITA No. 3140/Mum/2008 & ITA No. 3141/Mum/2008)

If an assessee interprets provisions of law without any legal basis and resultantly deprives the State of its due taxes it is a case of filing of inaccurate particulars, and further, falls under the ambit of section 271(1)(c) of the Act.

Facts of the case:

The assessee bank, is a corporate entity formed, registered and controlled from Mauritius. During the course of assessment proceedings, the AO found that the assessee had claimed expenditure in his return of income which was in relation to acquisition of fixed assets. Further, the assessee had not only claimed the expenditure, but also claimed depreciation in relation to such fixed assets, thus claiming a double deduction. The AO held the deduction to be not admissible on account of it being a capital expenditure as per the domestic laws.

The AO also initiated penalty proceedings as per the provisions of section 271(1)(c) of the Act on the grounds that by making claim for deduction of capital expenditure, which it was not eligible for, the assessee had furnished inaccurate particulars of its income.

The assessee argued that it had not concealed its income nor did it furnish inaccurate particulars. The assessee further argued that the expenditure in question was incurred wholly and exclusively for the purpose of earning business profit of its PE in India and full facts in relation to the same were given in the return of income.

In relation to the penalty proceedings, the assessee contended that the AO had neither been able to prove that it had furnished inaccurate particulars nor had been able to give any specific finding in that regard. The assessment proceedings were separate from the penalty proceedings and the penalty could be levied only if the assessee acted with a malafide intention.

The AO dismissed the arguments of the assessee and held that the case was a fit case for penalty u/s 271(1)(c).

Aggrieved by the order of the AO, the assessee preferred an appeal before the First Appellate Authority ('FAA').

Decision of the Appellate Authority:

The authority considered the contentions of the assessee. However, it stated that it was not clear as to how the assessee could derive the inference that capital expenses were allowable while computing the income under the head 'business profit'. Thus, it held that the assessee had not interpreted the mandate of Article 7(3) of the DTAA correctly.

The appellate authority in this regard, placing reliance on the decision of T.J.Mathai (269ITR492), K.P.Madhusudan (251ITR91) and Navbharat Traders (248 ITR 255), held that penalty was leviable in cases where the assessee would not offer any explanation or would fail to substantiate it. It was observed that the AO had analysed all the facts and had reached to a conclusion that the assessee was incorrect in claiming capital expenditure as an allowable revenue expenditure and that the conclusion of the AO was based on analysis of accounting and commercial principles and were supported by provisions of treaty and commentary on International Taxation. The assessee had not offered any convincing explanation as to why and on what basis it believed that capital expenditure could be claimed as deduction from business profits.

Therefore, upholding the decision rendered by the AO, the appellate authority decided the effective ground of appeal against the assessee.

Case Law 3: Orchid Griha Nirman (P.) Ltd. Vs Income Tax Officer (ITA No. 2269/KOL/2013)

Section 45(3) of the Act will not be applicable when the firm receiving the asset records it in their books of account as current asset.

Facts of the case:

The assessee along with two other private companies purchased a land on March 30, 2005. Subsequently, the assessee, alongwith the above mentioned two private companies and another company formed a partnership firm. The land, which was purchased by the partners, was transferred to the partnership firm and the same had been accounted in the books of account of the firm as an inventory *(i.e. as current asset)*. Diverse amounts were thereafter spent by the firm on the development of the land as an industrial park.

The construction and development of the building on the land was completed and subsequently, leased out by the firm. Later, the firm converted the land, constructed building and amenities which were shown as current assets in the books of account of the firm, into fixed assets. Lastly, the firm revalued the land and building in the books of accounts.

Based on the above facts, the learned AO was of the opinion that the land brought in by the partners into the firm was chargeable to tax in the hands of the partners under section 45(3) of the Act as it resulted into transfer of capital asset by way of capital contribution. Further, the notional profit earned on revaluation of the asset which was credited to partners' current account would also be taxable in the hands of the partners. Therefore, the total income of the assessee was reassessed as short term capital gains accruing to partners on transfer of the land to the firm and also considered share of revaluation profit on revaluation of fixed assets.

On carrying the matter before the CIT(A), the CIT(A) reversed the decision of the AO observing that since the land was transferred and accounted by the firm as current asset in their books of account for the relevant year, it was not within the purview of section 45(3) of the Act. Section 45(3) of the Act is applicable only in respect of a transfer of capital asset.

Further, CIT(A) also relied on the decision rendered by Hon'ble Supreme Court in Sanjeev Woollen Mills Vs. CIT[2005] (279 ITR 434) where it was held that the firm cannot make a profit out of itself. The transaction which is not a business transaction and does not derive immediate pecuniary gain is not subjected to tax. Also, it is a settled principle of income tax law that it is the real income, which is taxable under the Act and not the notional income. This proposition was also enunciated in the case of CIT Vs. Birla Gwalior (P.) Ltd [1973] (J 89 ITR 266)(SC).

Aggrieved by the decision, the AO preferred an appeal before the Hon'ble Tribunal.

Decision of Hon'ble Tribunal

The Hon'ble Tribunal upheld the decision of CIT(A) stating that the AO was wholly unjustified in invoking section 45(3) of the Act since the land transferred by the partners was accounted as a current asset and not as capital asset in the books of account of the firm.

Further, the Hon'ble Tribunal, dismissing the appeal of the AO, held that the revaluation of assets results in notional imaginary profits which cannot be taxed.

Thus, section 45(3) of the Act is applicable only if the firm receiving the asset records it in their books of accounts as capital asset, otherwise not. If the firm records the asset received as inventory *(i.e. current asset)* then the same is beyond of scope of section 45(3) of the Act.

Recent important circular, notification and press release issued by the Central Board of Direct Taxes ('*CBDT*')

1. Circular No. 37/2016 dated November 2, 2016 – Chapter VI-A deduction on enhanced profits.

The Central Board of Direct Taxes ('*CBDT*') has clarified herewith by way of circular that any expenditure related to business which has been disallowed leading to enhancement of profits, then the enhanced profits would be entitled for deduction under section 80 IB of the Act.

A link for the same is provided herewith:
http://www.incometaxindia.gov.in/communications/circular/circular372016.pdf

2. Notification No. 103/2016 dated November 7,2016 – Restriction of depreciation for company exercising the option 115BA of the Act.

The CBDT has hereby amended rule 5 for the purpose of section 115BA stating that any company who has exercised the option available u/s 115BA, then the depreciation allowable to those companies under section 32(1)(ii) of the Act shall be restricted to 40% in respect of any block of assets.

A link for the same is provided herewith:
http://www.incometaxindia.gov.in/communications/notification/notification103_2016.pdf

3. Press release dated November 18,2016 – Revision in the DTAA between India and Cyprus pertaining to capital gains arising from alienation of shares.

Press release dated November 18,2016 provides a revised agreement between India and Cyprus for the avoidance of double taxation applicable from April 1, 2017. The new DTAA provides for source-based taxation of capital gains arising from alienation of shares, instead of residence-based taxation provided under the existing DTAA. Further, they have introduced a clause for investments made before April 1, 2017 to be governed by the old DTAA. Also, the scope of PE has been expanded and the tax rate on royalty in the country from which the payments are made has been reduced to 10%.

A link for the same is provided herewith:
http://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/551/Signing-of-Revised-Double-Taxation-Avoidance-Agreement-between-India-and-Cyprus-18-11-2016.pdf

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