Principal Commissioner of Income Tax-12, New Delhi v. MS L and T SUCG JV CC27

ITA 518/2023 (CM APPL. 46720/2023)

2023:DHC:7802-DB; ITA 518/2023 | 2023-09-12

Reasonable cause sustained deletion of transfer-pricing documentation penalty in a disputed associated-enterprise relationship.

Income-tax Act,1961: sections 92D, 92E, 271AA, 273B

High Court of Delhi | 2-judge bench (Division Bench) | Justice Rajiv Shakdher | Justice Girish Kathpalia

Assessment years: 2014-15

01 FACTS OF THE CASE

The L&T–SUCG joint venture purchased a tunnel-boring machine for its Delhi Metro project. It did not report the transaction under section 92E or maintain section 92D documents, treating the Chinese supplier as unrelated on legal advice.

Source: PDF pp.2–5

02 DISCUSSION BY THE HON'BLE COURT

The quantum adjustment had been deleted because the transaction was at arm's length. The penalty dispute also involved the Chinese government ownership chain and the legal advice supporting the assessee's view of the relationship.

Source: PDF pp.3–6

03 JUDICIAL DECISION

The Court accepted reasonable cause under section 273B for the section 271AA penalty. It noted that the relationship admitted more than one view and that foreign law is a question of fact requiring appropriate expert evidence.

Source: PDF pp.5–6

04 OUTCOME / IN WHOSE FAVOUR

Revenue's appeal was closed as no substantial question of law arose. The 387-day delay in refiling was condoned without opposition.

Source: PDF pp.1–2, 6

05 EXPERT COMMENTS

AKHB Expert Comments — editorial analysis, distinct from the Court's findings.

Reasonable cause is the decisive protection: The decision supports an evidence-based explanation for the reporting failure: the assessee acted on legal advice about a disputed relationship. It does not make an arm's-length price a substitute for mandatory documentation. A comparable defence should establish the advice actually obtained and the circumstances in which it was relied upon. (PDF pp.5–6)

Do not reduce association to a government label: The ownership chain mattered, but the Court did not establish that government-controlled entities can never be associated enterprises. Its discussion recognises competing views and the need for proof of foreign law. The Commissioner's own analysis of Chinese law could not replace the evidential foundation identified by the Court. (PDF pp.4–6)

Keep the entity descriptions qualified: The source's paragraph 19 attributes the 68:32 holdings to the supplier, while paragraph 20 discusses L&T's dominance in the joint venture. That inconsistency should not become an asserted supplier ownership finding. The sustainable lesson is the reasonable-cause conclusion on this record, not a reconstructed corporate chart or an unconditional exemption from sections 92D and 92E. (PDF pp.4–6)

Source: PDF pp.5–6

SOURCE & VERIFICATION

Original High Court judgment PDF — AKHB source repository

Complete 6-page original reviewed; source bytes verified.

Full original and all five panels re-reviewed on 21 October 2026.

Open cited source rendition

Complete original source and all five note panels checked; original docket identities preserved.

STATUTORY SCOPE

Current law and subsequent treatment not independently verified.

LATER TREATMENT

Source checked 2026-10-21. Subsequent proceedings and current judicial treatment have not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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