No TP adjustment if interest cost was negligible in comparison to benefit derived by assessee from AE

Facts of the case - Rubamim Ltd. v. Deputy Commissioner of Income-tax - [2023] (Ahmedabad - Trib.)

Assessee-company was engaged in the business of manufacturing a wide range of Cobalt, Nickel, and Copper. It was acquiring raw materials of Cobalt from the Democratic Republic of Congo (DRC). For seamless supply of raw materials, it set up a wholly-owned subsidiary in UAE and an indirect subsidiary in DRC. The assessee had provided interest-free loans and advances to its AE in UAE.

Assessing Officer (AO) observed that the assessee had not submitted any evidence to substantiate that not charging interest on the loan given to AE could extract a better price for its supplies. Accordingly, he held that the action of the assessee in not charging interest on the loan given to its AE located in UAE was not in accordance with transfer pricing provisions. Thus, AO treated the transaction as an international transaction and worked out the arm's length price of interest.

On appeals, CIT (A) confirmed the adjustment made by AO. The aggrieved assessee filed an appeal to the Ahmedabad Tribunal.

Decision of the case :

- The Tribunal held that the associated enterprise based in UAE was purchasing cobalt concentrate for AE in DRC and supplying the assessee for its manufacturing activity. Thus, the question arose whether any adjustment was required under the transfer pricing provision for such interest erosion advances.
- In the present case, the transaction for advancing the interest-free loans to the associated enterprises had to be seen in the context of the benefit received by it from such associated enterprises. As such the transaction of interest-free loans/advances viz-a-viz the benefit received by the assessee were intrinsically linked, which has to be evaluated after aggregating both the transactions. The transaction of interest-free advances cannot be viewed without considering the benefit derived by the assessee from the associated enterprises.
- The interest cost appeared negligible when analyzing the notional interest added by the TPO under the transfer pricing adjustment with the benefit derived by the assessee. The interest cost was around approximately Rs. 30 lacs. In contrast, the gross import of material and export generated by the assessee was far more than the interest expenses after converting into Indian rupees.
- Therefore, the answer stands negative because the assessee got such huge business from its associated enterprises, which would not have been possible until the assessee had not incorporated a company in UAE and DRC. No adjustment under the transfer pricing provisions is required to be made with respect to the interest-free loans and advances by the assessee to its associated enterprises.