

Global Tax Update

India

Deloitte Tohmatsu Tax Co.

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Subvention received by Indian subsidiary from its parent company towards recoupment of losses is a non-taxable capital receipt¹

Taxpayer was incurring losses and had received subvention from its German parent company towards recoupment of losses.

Tax authorities treated the aforesaid receipts as taxable revenue receipts. Such treatment was also upheld by the jurisdictional High Court.

On further appeal, Supreme Court held that voluntary payments made by the parent company to its loss making Indian company should be treated as payments made to protect capital investment in the Indian company. Such a sum cannot be treated as a revenue receipt and should not be taxed².

¹ Siemens Public Communication Networks Pvt. Ltd case (Supreme Court)

² The Supreme Court noted that similar view was taken in a recent pronouncement by the Delhi High Court in the case of CIT v. Handicrafts and Handlooms Export Corporation of India Ltd. (360 ITR130) [2014] with which they are in agreement.

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