SOUTH CENTRE

2 July 2026

Webinar series: Good practices in combatting abusive transfer pricing
First webinar: Case From India

Andhra Paper Limited v. ACIT

Anne Wanyagathi Maina wanyagathi@southcentre.int
Research Consultant Tax
South Centre Tax Initiative
South Centre

Content

1. Introduction
2. Facts of the case
3. Disputed issues
4. Appellants arguments
5. Respondents arguments
6. Court Ruling
7. Lessons and recommendations

Introduction

- Andhra Paper Limited v. ACIT (I.T.A. No. 349/VIZ/2024) ruled on Dec 2025.
- Andhra Paper Limited (the ’assesee’ or the ‘company’) is an integrated pulp and paper manufacturer in India.
- The company made substantial royalty payments for use of trademark to its foreign affiliated entity.
- The Assistant Commissioner of Income Tax (ACIT) and Transfer Pricing Officer (TPO) challenged these payments, and made assessments for the year 2020-21.

Transactions in the dispute

Relevant transaction at the time of the dispute

HP (USA)

Third-party trademark owner

Licenses HP office paper trademark

International Paper Company USA (IP-USA)

Associated entity of Andhra Paper

Sub-Licenses/ Licenses Hp office paper, and IP, Hammermill trademarks

Andhra Paper Limited (India)
Assessee

(est. 1964)
Subsidiary of IP-USA

SOUTH CENTRE

Facts

- Andhra Paper Limited was incorporated 29 June 1964.
- Subsequently acquired by International Paper Co. USA (IP-USA).
- The company entered into a trademark license agreement with IP-USA, for the use of trademarks on certain products manufactured in India.
- Royalty payments:
  - IP logo: 0.5%
  - Hammermill: 1%
  - HP branded office paper: 2.5%–4.5%
- In turn, IP-USA has back-to-back arrangements to pay royalties at the same rate to HP for the office paper.

SOUTH CENTRE

Facts

- The company was selected for audit for the year 2020-21.
- Company used comparable uncontrolled price (CUP) method and benchmarked with external royalty databases to determine the royalty rates (*ktMINe, Royaltystat*).
- TPO challenged the benchmarking.
- Assessee's failure to respond to TPO notices allowed the TPO to determine arm's length price (ALP) at NIL.
- Final assessment order was issued in 2024, leading to the appeal.

SOUTH CENTRE

Issues under Appeal

- TPO wrongly rejected taxpayer's transfer pricing study and CUP.
- HP royalty was reimbursement under back-to-back licensing with a third party
- The trademarks are globally recognized brands in commercial paper thus they shouldn't be priced at nil.
- They created commercial value and business benefit.
- Commercial expediency should not be questioned.

Questions for reflection

- Was CUP the most appropriate method?
- Did trademark use generate demonstrable commercial benefit?
- Could royalty be justified where Indian entity already had market recognition?
- What evidence best proves commercial benefit?

SOUTH CENTRE

Appellant's key arguments

- **HP Trademark – Pass-Through Reimbursement**

  IP-USA had a back-to-back arrangement with HP USA. The royalty passed on to Andhra Paper was at the same rate IP-USA was obliged to pay HP USA – a third-party transaction.

- **CUP method was correctly applied**

  Assessee searched *RoyaltyStat* & *ktMINE* databases and identified 14 third-party trademark licence agreements. The 35th-65th percentile range was 2%-4% (median 2.4%). Rates paid (0.5% & 1%) fall well below this range, confirming arm's length character.

- **Commercial Value of Trademarks**

  HP, HAMMERMILL and IP Logo are globally recognized brands in the commercial paper sector. Turnover figures (certified by independent Chartered Accountant) showed year-on-year increase.

- **Case law – EKL Appliances Ltd (Delhi High Court)**

  Reasonableness to be seen from point of view of business man. The Delhi HC held that TPO was not justified in disallowing brand fee because EKL had been continuously incurring huge losses.

SOUTH CENTRE

Respondents key arguments

- **Wrong comparables – Foreign Database**

  RoyaltyStat & *ktMINE* contain only agreements filed with the US Securities & Exchange Commission (SEC) – all foreign comparables.

- **Lack of strict product comparability required under CUP method.**

- **No demonstrated commercial benefit**

  The assessee failed to show the benefit from the trademark use. It could not demonstrate that the foreign trademarks generated incremental sales. Turnover growth is due to many factors - like demand-supply, among others.

- **Andhra Paper already had long established presence India**

  was a significant player since 1964, long before the foreign acquisition. IP-USA's trademark has no recognizable presence in the Indian paper market. The assessee markets the IP-USA's brand in India, creating value for the IP-USA – not the other way around.

SOUTH CENTRE

Income Tax Appellate Tribunal (ITAT) (Visakhapatnam) Ruling

- Assessee failed to furnish copies of the trademark license agreement required for a strict CUP analysis.
- Comparables drawn exclusively from US-SEC filings reflect foreign market conditions.
- **How to demonstrate financial benefit?**
  - Mere increase in sales does not prove trademark value.
  - In case where the licensee was integrated within the group via acquisition, the comparison of the pre & post-acquisition sales can produce necessary evidence for financial benefit.

SOUTH CENTRE

ITAT Ruling

- **Value-chain analysis:**

  critical to demonstrate the arm's length nature of royalty payment. Should include a functional, asset & risk (FAR) analysis in connection with the development, enhancement, maintenance, protection and exploitation (**DEMPE**) for intangibles.

- Andhra Paper **already had brand and significant presence** in India.
- IP-USA had no dominant presence in India.
- **EKL Appliances Ltd case distinguished:**

  concerned whether a brand fee was commercially reasonable for a loss-making entity.

- Upheld the assessment by TPO.

SOUTH CENTRE

Broad Implications

- Taxpayers to demonstrate commercial benefit from the intangibles before allowing royalty deductions.
- Increase in sales is not sufficient. Compare pre/post-acquisition sales data.
- Well-established local companies acquired by foreign MNEs may be building the foreign brand value locally.
- CUP method requires strict comparability of product, geography and contract terms.
- Value chain analysis for intangible is key.
- DEMPE functions can help to assess how each entity contributes and benefits from intangibles.

SOUTH CENTRE

Lessons and recommendations

Tax administrations can:

- Challenge unsupported royalty deductions.
- Test whether intangibles create local value.
- Require proof of commercial benefit from the intangible.
- Examine local market strength of a company.
- Request value-chain analysis including an FAR analysis with DEMPE functions for intangibles.

THE SOUTH CENTRE

International Environment House 2
Chemin de Balexert 7-9
POB 228, 1211 Geneva 19
Switzerland
Tel.: +41 22 791 8050
south@southcentre.int

›› FIND OUT MORE:

https://www.southcentre.int
https://taxinitiative.southcentre.int

›› THE SOUTH CENTRE IN SOCIAL MEDIA:

@South_Centre

SouthCentre GVA

South Centre, Geneva